



Department of General
Services
Procurement Division
707 3RD Street
West Sacramento, CA 95605

STATE OF CALIFORNIA

MULTIPLE AWARD

CONTRACT

CONTRACT No's	DRPQ-02-70-0001, 0002 & 0003
SERVICE:	DISASTER RECOVERY SERVICES
CONTRACTORS: ACS contract #DRPQ-020-70-0001 IBM contract #DRPQ-02-70-0002 NORTHROP GRUMMAN contract #DRPQ-02-70-0003	
CONTRACT TERM: April 1, 2002 through March 31, 2005	
DISTRIBUTION CODE:	ALL EDP CONTACTS AND LOCAL AGENCIES MAILING LIST

DEPARTMENT OF GENERAL SERVICES CONTACT

Scott Norton
707 3rd Street
West Sacramento, CA 95605
Phone 916.375-4503
Fax 916.375-4490

Russ Guarna, ACQUISITIONS MANAGER

EFFECTIVE DATE April 1, 2002

ORDERING PROCEDURES

FOR THE USE OF PREQUALIFIED DISASTER RECOVERY CONTRACTORS

MULTIPLE AWARD CONTRACT

April 1, 2002

**DISASTER RECOVERY
ORDERING PROCEDURES**

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DISASTER RECOVERY ORDERING PROCEDURES

A. PURPOSE/SERVICES OFFERED BY THE PREQUALIFIED POOL OF CONTRACTORS

This Multiple Award Contract (MAC) provides State and local agencies with a pool of prequalified contractors that specialize in providing Disaster Recovery services. The contractors on this contract submitted a compliant bid in response to the State's Administrative and Technical requirements.

A local agency is any city, county, district or other governmental body empowered to spend public funds per California Public Code 12110. While the State of California makes this MAC available to local governmental agencies, each local agency should make its own determination whether using the MAC is consistent with their procurement policies and regulations.

B. BENEFITS

There are a number of benefits to be gained by using these prequalified contractors. The contractors listed in these Ordering Instructions have responded to a very detailed bid, were evaluated by the Department of General Services Procurement Division and were determined to be compliant to the bid requirement. These contractors have proven expertise and have staffing in-place that meets the State's experience requirements to provide data centers with disaster recovery services. The benefits of utilization of the MAC are:

1. **A greatly abbreviated bidding process.** Prenegotiated contract language with each of the prequalified contractors is already in place, so there is no need to negotiate contract language. Agencies may have unique supplemental contract language that may need to be added to the agency's Statement of Work (SOW). This supplemental contract language must not conflict with the prenegotiated contract language; if it conflicts, the prenegotiated language will have precedence.
2. **Only deal with prequalified contractors.** The agency will be working with only a limited number of prequalified contractors. This eliminates the time spent investigating unknown contractors, or dealing with numerous bidders, who may not be qualified to do the required work.
3. **Less time developing the agency administrative requirements.** Since most of the administrative requirements are already done, the agency can focus on only those administrative requirements that are unique to their project, thereby saving the agency time.
4. **A faster award process.** The agency will not have to deal with protests. The contractors on this MAC have waived their right to protest awards made under this MAC.
5. **The assistance of Department of General Services Procurement Division (DGS-PD)** DGS-PD wants the agency's project to be a success and will assist the agency in the use of this contract.

DISASTER RECOVERY ORDERING PROCEDURES

C. RESTRICTIONS

The prequalified pools of contractors included in this contract have been approved to provide Disaster Recovery services for data centers.

It is still necessary for the agency to develop a Statement of Work (SOW) that must be bid. No specific rates have been negotiated by the Department of General Services when creating this pool, therefore, the agency will need to obtain the rates and pricing for the project as part of the bid.

D. ORDER PLACEMENT

The agency may place an order anytime during the effective periods of this contract. The current contract is effective from April 1, 2002 through March 31, 2005. The State of California - DGS has the option for two (2) one-year extensions to this contract. It is anticipated that additional contractors may be added to this prequalified contract. Therefore, it is suggested that the agency visit the DGS-PD's website for updated listings for additional contractors who may have been added to the contract.

A State agency must use Form GSOP-206 to place an order against this MAC. Local agency may use the State's form or their equivalent but there documentation must contain at a minimum the same information as listed on the State's GSOP-206. A sample of this form is included. State and local agencies will be charged a fee of 1.21% of the contract amount for the use of this MAC and the related services. If the amount of the contract increases after the initial contract, 1.21% of the additional amount will be charged.

E. ORDER INITIATION

The ordering agency must coordinate with the applicable units within and outside of their agency (i.e., Procurement, Business Services, Department of Information Technology, Department of Finance, Contracts, etc.). There may be other forms, approvals or documentation that needs to be completed or obtained. Once the agency has obtained the appropriate approvals, the contractors on the MAC may be solicited to provide specific proposals for the agency's requirements. State agencies must complete a GSOP -206, filled out according the ordering procedures. Local agencies may use the State's GSOP-206 or may use their own ordering documentation but there documentation must contain at a minimum the same information as listed on the State's GSOP-206.

F. PREQUALIFIED CONTRACTORS

Following is a listing of prequalified prime contractors. The State's contract is with the Prime Contractor, not the subcontractor. The agency should ask the Prime Contractor about the use of the subcontractor in the project. The agency may contact DGS-PD for additional assistance.

**DISASTER RECOVERY
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ACS

Mr. Larry McCabe
1400 South Grand Ave
Santa Ana, Ca. 92705
(714) 834-2230
Contract number DRPQ-02-70-0001

IBM

Mr. Steve Hamano
2710-S Gateway Oaks Drive
Sacramento, Ca 95833
Voice (916) 920-6050
Fax (916) 641-4030
Contract number DRPQ-02-70-0002

Northrop Grumman

Mr. Rob Rogers
2150 River Park Drive Suite 255
Sacramento, Ca. 95833
Voice (916) 567-9995
Fax (916) 567-9997
Contract number DRPQ-02-70-0003

G. STATE OF CALIFORNIA CONTACT

Scott Norton
Department of General Services
Procurement Division
707 3rd Street Second floor
West Sacramento, CA 95605
(916) 375-4503
Scott.Norton@dgs.ca.gov

DISASTER RECOVERY ORDERING PROCEDURES

CONTRACT GUIDELINES

A. SUGGESTED RFP FORMAT

To begin, the agency will need to develop a Statement of Work (SOW) specific for the project. The SOW may contain supplemental contractual terms and conditions beyond what has already been established. Make sure that supplemental terms and conditions do not conflict with the prenegotiated terms and conditions. Any questions or changes to the prenegotiated contract terms and conditions must be referred to and approved by the DGS-PD coordinator. Develop the agency's evaluation selection criteria, timelines, etc. and put the project out to bid. Once bids are received, the agency will need to go through a selection process and select the winning bidder. The agency will need to go through all the standard procedures the agency follows when conducting a bid.

The agency needs to develop their justification as to how the agency will make the award. The agency must explain in the RFP how the agency's selection process will be done so bidders understand the agency selection process and can bid accordingly. A summary of the selection process and a detailed selection report must be submitted to DGS-PD with the MAC Contracting Report. The agency may select their contractor based on best value to the agency and is not required to select the bid that is the least costly.

As a recommendation, the RFP should require the bidders to explain their approach to the agency's project. Ask the bidder what successes they have had in past projects. While they have already responded to a detailed RFP to be included in this contract, the agency may ask for whatever background information that is of interest to the agency. The agency can ask for references for projects similar to the agency's project. The agency may also ask for detailed resumes for key personnel, such as the project manager that they will be assigning to the project. Of course, the agency will want to ask for pricing and define the project timelines for the bidding process, as well as the due dates for the project. Finally, keep in mind that the agency can always review the detailed bid response that the contractor provided to DGS-PD. Reviewing their response will let the agency see exactly which specific technical capabilities the contractor possesses, as well as how their references rated them. It will also provide the agency additional insight to their past projects.

The following items are noted for the agency consideration and possible inclusion in the RFP.

Limitation of Liability: The agency will want to make sure the liability of the contractor to the State is at least the amount of the contract. In most cases, the agency will want these liabilities are greater than the contract amount but these liabilities are not unlimited.

DISASTER RECOVERY ORDERING PROCEDURES

Performance Bonds: The agency is free to require a bond as part of the specific project requirements. The contractors in the pool have agreed that they will provide a bond if required for a specific project.

DVBE Requirements: Because Contractors were not guaranteed any specific quantity of work from this contract, bidders were not required to make DVBE commitments as part of this procurement. The agency should include the appropriate DVBE language and forms in the Administrative Requirements.

NOTE: **The State encourages agencies to use small businesses and disabled veterans businesses in all State contracts.**

Be sure that the agency has received all appropriate departmental and agency approvals (including Department of Finance and Department of Information Technology) as the agency proceeds through the project.

Suggested format for the RFP

1. Cover Letter, due dates, contact people, how award will be made, number of copies of responses, etc.
2. Description of the agency's current situation and what the agency hopes to accomplish in the desired solution.
3. Any Additional Administrative Requirements
4. Technical Requirements (Statement of Work) IF APPLICABLE, IT IS HIGHLY RECOMMENDED THAT THE AGENCY CONSIDER A PHASED APPROACH TO THEIR PROJECT, TO REDUCE RISK. (It is suggested that the agency do not pay the contractor until each phase is accomplished to the agency's satisfaction.)
5. Pricing

Once the agency has created the RFP, the agency should take the following steps.

1. Send the RFP to the pool of contractors for them to respond to. The agency cannot use this MAC to award projects to contractors who are not listed. The RFP can be sent via e-mail if the agency chose. Contact the contractor to obtain their current e-mail address.
2. Evaluate each contractor's response. Insure that their Project Manager has the experience required. The agency is free to contact any references that have been provided, or require a demonstration if applicable.
3. Conduct any additional necessary interviews and check references to assure the agency of the contractor's capabilities to satisfy the agency's needs.
4. Make the selection of the contractor. The agency must be consistent with the selection criteria stated in the RFP. The agency should send a

**DISASTER RECOVERY
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“Notice of Intent” to all responding bidders, identifying the agency’s intended awardee.

THE AGENCY DOES NOT NEED TO ALLOW AN OPPORTUNITY FOR BIDDERS TO PROTEST THE SELECTION OF A CONTRACTOR. THE CONTRACTORS HAVE WAIVED THAT RIGHT WHEN RESPONDING TO THE ORIGINAL MAC. HOWEVER, THE AGENCY SHOULD ALLOW A CHANCE TO PROTEST THE REQUIREMENTS OF THE BID.

Complete a GSOP-206 form or local agency equivalent. Attach the contractor’s bid response to it, as it will become the formal scope of work, and as such, part of the contract. Obtain all required final approvals prior to the contractor’s commencement of work. These approvals are to be recorded in box numbers 15, 16 & 17 on GSOP-206 or local agency equivalent.

5. Complete the MAC Hiring Activity Report, and submit it along with a completed GSOP 206 or local agency equivalent.

B DISTRIBUTION – MULTIPLE AWARD CONTRACT ORDER-FORM GSOP-206
The agency will need to complete the GSOP 206 form or local agency equivalent and distribute it in the following manner:

1. A copy with original signatures of the MAC order, GSOP-206 or local agency equivalent and the MAC Hiring Activity Report must be sent to:

Department of General Services
Procurement Division
Major Acquisitions
Attention: Disaster Recovery MAC coordinator
707 3rd Street, second floor
West Sacramento, CA 95605

2. State agencies must send a copy with original signatures of the GSOP-206 to:

State Controller’s Office
Claims Audit Unit
3301 C Street, Room 1404
Sacramento, CA 95816.

3. Send a GSOP-206 or local agency equivalent with original signatures to the contractor.

4. Keep a copy with original signatures on file for the agency records.

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C. NO ACCEPTABLE CONTRACTORS

If the agency declines all proposals from the various contractors or is unable to find an appropriate contractor during the review process, the agency may utilize any other procurement process available to the agency. In this situation, the agency is under any obligation to make an award based on their bid.

D. CONTRACTOR TIME REQUIREMENTS

1. Contractor must provide the agency, in one single submission, the proposal or additional information requested within the time allowed by the agency. The contractors understand that response times could be very short.
2. Contractor personnel shall not commence work until authorization has been received from the authorized approval authority. (Signed off in Boxes 15, 16, 17).

E. ORDER TERMINATION

If an agency wishes to terminate a contract after the contract has been awarded, the agency must complete another GSOP-206 and check the termination block in box number 7 or local agency equivalent. This order should then be processed the same as a new order.

F. AMENDMENTS

An amendment to the contract and Statement of Work is required if cost increases.

Agencies may amend a contract by completing another GSOP-206 or local agency equivalent, noting the amendment number in box number 4, and checking the Amendment block in box number 7.

H. AGENCY REPORTING REQUIREMENTS

If a contractor is performing in an outstanding manner, or problems are encountered, agencies are encouraged to complete a Project Completion / On-going Performance Report and send it to the Department of General Services Procurement Division.

Agencies can request access to this information during the hiring and selection process.

I. OTHER CONDITIONS

1. Contractor Requirements

- a. In recognition of the fact that contractor personnel providing services under this agreement may perform similar services from time to time for others, this agreement shall not prevent contractor from performing such similar services or restrict contractor from using the personnel provided under this agreement, providing that such use does not conflict with the performance of services under this agreement.

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b. Contractors must report on a quarterly basis to the DGS contact all contracts being worked on as a result of this MAC. The format of the report shall include the following information: Agency Order Number, Agency Name, date the project began, contractor hired, date the project ended (if done), the total cost for their services. It is highly recommended that copies of any bills that the contractor sends the agency be included as further backup documentation. Failure to report this information may result in the termination of the MAC.

c. When the project is completed, a final report must be sent to the DGS contact, stating that the project is completed, and include a summary of the work accomplished. The format of the report shall include the following information: Agency Order Number, Agency Name, date the project began, contractor hired, date the project ended, the total cost to the state or local agency.

2. Agency Requirements

a. The MAC order will specify the agency individual responsible for overseeing the contractor's performance and completion of the requested services and to whom all communications relative to those services should be addressed.

b. The Agency must submit to the State of California contact, a copy of all completed and approved GSOP 206 and the MAC Contracting Report forms or local agency equivalent, when the project begins. Included with this report must be the Contractor name, Agency Bill Code, and Agency Order Number.

**PREQUALIFIED CONTRACTORS
AND THEIR CONTRACT NUMBER**

The agency will need the following information when placing the order.

Company	Contract number
ASC	DRPQ-02-70-0001
IBM	DRPQ-02-70-0002
Northrop Grumman	DRPQ-02-70-0003

ACS
Mr. Larry McCabe
1400 South Grand Ave
Santa Ana, Ca. 92705
(714) 834-2230
Contract number DRPQ-02-70-0001

**DISASTER RECOVERY
ORDERING PROCEDURES**

IBM

Mr. Steve Hamano
2710-S Gateway Oaks Drive
Sacramento, Ca 95833
Voice (916) 920-6050
Fax (916) 641-4030
Contract number DRPQ-02-70-0002

Northrop Grumman

Mr. Rob Rogers
2150 River Park Drive Suite 255
Sacramento, Ca. 95833
Voice (916) 567-9995
Fax (916) 567-9997
Contract number DRPQ-02-70-0003

PROJECT COMPLETION FORMS

Make sure all sections are completed. A blank order form follows this narrative. A copy of the completed form will be sent to the selected contractor, along with DGS and other agencies as explained below.

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- | | | |
|-----|--|--|
| 10. | Budget Category | List the Budget Category the project falls into. |
| 11. | Subcontractors and or
DVBE Participation. | List any subcontractors. If there is DVBE participation, state the DVBE commitment from the RFP response. |
| 12. | DVBE Address. | Provide a complete mailing address for any DVBE firms. |
| 13. | Certification of
Compliance
with S.A.M. Section
4819.41 and 4832. | If contracts will be more than \$10,000, a certification is required in most cases. |
| 14. | Total Cost | This figure is to be the total of the contract amount. This is to be the total amount of compensation the contractor receives from this contract, and should reflect any changes to the amount made by amendments to the contract. |
| 15. | Department Approval | Original signature of the agency officer authorizing expenditures of funds and date of approval is included in this section. |
| 16. | Signature of Personnel
Officer | Original signature of the Personnel Officer and date of approval is included in this section. |
| 17. | Signature of Accounting
Officer | Original signature of the Accounting Officer and date of approval is included in this section. This box is to be completed after the evaluations are done and the Agency decides to proceed with the contractor. |
| 18. | Appropriation of Funds | The Accounting Office will include appropriate fiscal information indicating the appropriation, encumbrance of funds and budget information. When the Accounting Officer signs off, this field is to be completed. This box is to be completed after the evaluations are done and the Agency decides to proceed with the contractor. |

DISASTER RECOVERY ORDERING PROCEDURES

MULTIPLE AWARD CONTRACT ORDER FORM-DISASTER RECOVERY SERVICES
GSOP-206. (REV. 4/ 01) **BE SURE TO ATTACH THE CONTRACTOR'S BID RESPONSE TO THIS FORM, AS IT BECOMES THE SCOPE OF WORK STATEMENT**

1. Service Requested By:	2. Mail & Bill To:	3. Agency Billing Code	
		4. Agency Master Agreement Order Number # ----- Am # ----- Contractor: This Number Must be Shown on Invoice	
5. Contractor Name And Address		6. Date -----/-----/-----	7. Type of Order () New () Amendment () Termination
Job Start Date: Contract # ----- S/B ----- EI# -----		8. Agency User/Project Contact: Name Phone #	

In accordance with the terms and conditions set forth in the Multiple Award Contract, we desire the Information Technology services listed below:

9. Services to be performed	10. Budget Category	11 Subcontractors involved? Identify any DVBE's and how much they will be receiving	OFFICIAL USE ONLY
			12. DVBE complete mailing address.

15. DEPARTMENT APPROVAL I hereby certify upon my personal knowledge that the expenditures are necessary to perform the functions stated, that I am authorized to sign on behalf of this Agency, and that I authorize these expenditures. SIGNATURE OF OFFICER DATE	13. The appropriate Department Certification as defined in S.A.M. Section 4832 MUST BE ATTACHED		14. TOTAL COST:		
	16. I certify as duly appointed and qualified department personnel officer, that the matters described herein conform with the criteria and procedures of EDP Service Contracts prescribed in S.A.M., and State resources cannot be used and the forgoing is true to the best of my knowledge. SIGNATURE OF PERSONNEL OFFICER DATE				
DEPT. OF GENERAL SERVICES PROCUREMENT USE ONLY	17. I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above. SIGNATURE OF ACCOUNTING OFFICER DATE				
	18. Appropriation		Line Item Allotment		T.B.A. Number
	Function		Fund		B.R. Number
	Fiscal Year	Statues	Item	Chapter	Encumbrance
	Unencumbance				

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B. MAC CONTRACTING REPORT FORM INSTRUCTIONS

This form is to be completed after award of a project under this MAC. It should be sent to DGS-PD along with a signed GSOP –206.

Agency Name:	Enter the name of the agency.
Agency Order Number:	Enter the same number as entered in block 3. of the MAC order.
Contact Person:	Enter the name of the individual who may be contacted should there be questions about the MAC order.
Phone Number:	Enter the phone number of the Contact Person.
Budget Category:	Enter the Budget Category of this project.
Name of the Selected Contractor:	Enter the name of the Contractor that was selected for this MAC order.
Subcontractor Names	Enter the names of any subcontractors that will be used on this project. Identify if any of them are DVBE firms. If there are DVBE firms, indicate the amount of money the DVBE will be receiving.
Summary of responding bidders	Identify the names of the firms who were not selected for this contract.
Why was the Selected Contract chosen for award?	Provide a brief explanation of why this contractor was selected over the other contractors.

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MAC CONTRACTING REPORT FORM

Agency Name: _____ Agency Order Number: _____

Agency Contact Person: _____

Agency Contact Person Phone Number: _____

Budget Category of Project: _____

Name of the Selected Contractor: _____

List any subcontractors that the Prime contractor will be utilizing:

Identify and include below and continue on a separate sheet (if necessary), the names of the other firms, which submitted a response to the RFP.

Use the following space to provide an explanation of how this contractor's proposal provides the most value effective services to the agency.

**DISASTER RECOVERY
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C. PROJECT COMPLETION / ON-GOING PERFORMANCE REPORT

The form on the following page is to be completed when the project is completed, or to report problems on an on-going project. Its contents may be made available to other agencies seeking information regarding the contractor. The form is to be forwarded to:

State of California
Department of General Services
Procurement Division
Major Acquisitions
MAC Coordinator for Disaster Recovery Services
707 3rd Street second floor
West Sacramento, CA 95605

**DISASTER RECOVERY
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PROJECT COMPLETION/ ON-GOING PERFORMANCE REPORT

PROJECT IS COMPLETED _____ PROJECT IS STILL ONGOING _____

1. GENERAL INFORMATION

Date Project Began	_____	Date Project completed (if completed)	_____
Agency Name:	_____	Contractor Name:	_____
Contact Person:	_____	Order Number:	_____
Phone Number:	_____	Date this report is submitted.	_____

2. OVERVIEW OF PERFORMANCE

General Description of project: (i.e.: What was the contractor hired to do/)

Problems encountered: (Please be specific and detailed.)

3. SUMMARY:

Overall, was the agency satisfied with the contractor? Yes _____ No _____

Would the agency use this contractor again? Yes _____ No _____

Would the agency recommend this contractor to another agency? Yes _____ No _____

If no, on either of the above, please explain:

**4. DOES DGS- PD NEED TO ASSIST THE AGENCY WITH PROBLEM
RESOLUTION?**

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CONTRACT

SPECIAL PROVISION TO IT GENERAL TERMS AND CONDITIONS

Item # 3 Limitation of Liability in the IT General Terms and Conditions is hereby changed to:

3 Limitation of Liability

- a. Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work and that are the subject matter of or are directly related to the cause of action. In those instances where Contractor has failed to perform as called for by the contract, the Limitation of Liability provided above shall not limit any right to recover the 'Cost to Cover.' 'Cost to Cover' means the cost of procuring a machine or machines of equivalent (not greater) capability, function, services and performance, less the Contractor's bid price.
- b. The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph of the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Contractor's negligence. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this contract.
- c. State's liability for damages for any cause whatsoever, and regardless of the form of action whether in contract or in tort, excluding negligence, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work (SOW) and that are the subject matter of or are directly related to the cause of action.
- d. In no event will either the Contractor or the State be liable for consequential damages even if notification has been given as to the possibility of such damages

Except for the change listed above, all other contract language consist of the following State Model Contracts:

- General Provision GSPD-401 dated 01/01/2001
- State Model Information Technology General Terms and Conditions
- State Model Information Technology Purchase Special Provision
- State Model Information Technology Personal Services Special Provision
- State Model Information Technology Maintenance Special Provisions
- State Model Information Technology Software License Special Provisions

These Model Contracts may be downloaded form the following website

<http://www.pd.dgs.ca.gov/default.asp?mp=acqui/itcm2.asp>. Contractor requesting changes to these contracts must use the process outlined above to request changes to the model contracts.

RFP MAC 0029
SECTION I

I. INTRODUCTION AND OVERVIEW OF REQUIREMENTS

A. PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The purpose of this "Request for Proposal" (RFP) is to establish a pool of prequalified contractors to provide emergency data processing services for the Data Centers in the event of their inability to continue computing operations due to a disaster.

The Data Center will solicit the prequalified contractor(s) from the resulting Master Awards Contract, using a statement of work for the contractor(s) to provide pricing to meet the Data Center needs. The Data Center may choose the contractor that is the best value to the Data Center for the services required. The contractor must be able to provide hot site services to the Data Centers and their customer agencies Statewide for the term of the contract. A hot site is a site that provides customers with a testable facility to which a Data Center can transfer critical data processing functions at the time of a disaster. This hot site must have the latest technological advances in design, computer hardware, including data storage subsystems, telecommunications capability, as well as conference rooms, office space, support areas, a full complement of on-site technical specialists, and must be located in areas other than the location of the Data Center they will serve as a hot site for. In the event of a disaster, Data Center personnel must have unrestricted access to these facilities. As part of the monthly subscription fee to a hot site, semi-annually testing must be included which will help in the transition phase from disaster site to the hot site.

The State intends to award a three (3) year contract with an option for the State to renew the contract for two (2) additional one year terms. A statement of work issued by a Data Center can be for up to a five (5) year period.

The contractor will provide monthly invoices for all services rendered to the Data Center.

Time is of the essence in this procurement and bidders must be responsive to the dates in Section I, Key Action Dates.

Responses to this RFP will be evaluated based on the total bid, and award(s), if made, may be to multiple contractors.

B. SCOPE OF THE RFP AND VENDOR ADMONISHMENT:

This RFP contains instructions governing the requirements for a firm bid to be submitted by interested bidders, the format in which the bid information is to be submitted and the material to be included therein, the requirements which must be met to be eligible for consideration, and bidders' responsibilities.

Due to the abbreviated schedule of this procurement a phased approach will not be used, therefore only Final Bids will be received.

IF A VENDOR EXPECTS TO BE AFFORDED THE BENEFITS OF THE STEPS INCLUDED IN THIS RFP, THE VENDOR MUST TAKE THE RESPONSIBILITY TO:

- **CAREFULLY READ THE ENTIRE RFP;**
- **IF CLARIFICATION IS NECESSARY, ASK APPROPRIATE QUESTIONS IN WRITING AND IN A TIMELY MANNER;**
- **SUBMIT ALL REQUIRED RESPONSES, COMPLETE TO THE BEST OF THEIR ABILITY, BY THE REQUIRED DATES AND TIMES;**
- **MAKE SURE THAT ALL PROCEDURES AND REQUIREMENTS OF THE RFP ARE ACCURATELY FOLLOWED AND APPROPRIATELY ADDRESSED;**

• **CAREFULLY REREAD THE ENTIRE RFP BEFORE SUBMITTING THE BID.**

C. AVAILABILITY:

Availability of equipment and/or software will be determined by the statement of work the Data Center requires the contractor to provide.

D. DEPARTMENT OFFICIAL:

USE THIS ADDRESS UNTIL 11-29-01

Scott Norton
Department of General Services
Procurement Division
Major Acquisition Unit
1823 14th Street
Sacramento, CA 95814
Email Scott.Norton@dgs.ca.gov
Voice (916) 324.2989 FAX (916) 327.7593

USE THIS ADDRESS AFTER 11-29-01

Scott Norton
Department of General Services
Procurement Division
Major Acquisitions Unit
707 3rd Street 2nd Floor
West Sacramento, CA 95605
Email Scott.Norton@dgs.ca.gov
The new phone number not yet available

E. DEPARTMENT CONTACT:

The Department Contacts and mailing address to send bids, questions, and for visits is:

USE THIS ADDRESS UNTIL 11-29-01

Scott Norton
Department of General Services
Procurement Division
Major Acquisition Unit
1823 14th Street
Sacramento, CA 95814
Email Scott.Norton@dgs.ca.gov
Voice (916) 324.2989 FAX (916) 327.7593

USE THIS ADDRESS AFTER 11-29-01

Scott Norton
Department of General Services
Procurement Division
Major Acquisitions Unit
707 3rd Street 2nd Floor
West Sacramento, CA 95605
Email Scott.Norton@dgs.ca.gov
The new phone number not yet available

F. KEY ACTION DATES:

Listed below are the important actions, dates, and times by which the actions must be taken or completed. If the State finds it necessary to change any of these dates, it will be accomplished by addendum.

ACTION	DATE
1. Release of RFP	8/14/01
2. Last Day to Submit	8/31/01
* Letter of Intention to Bid (Exhibit V-A)	
* Proposed Contract Language	
3. Last Day to Submit Questions	9/5/01
4. Last Day to Request Changes to RFP	9/12/01
6. Last Day to Protest the RFP	10/1/01
7. Last Day to Finalize Proposed Contract Language	10/12/01
8. Submission of Final Bid (Close of Business 5:00 P.M.)	12/7/01
9. Notification of Intent to Award	12/28/01
10. Last Day to Protest Selection (Close of business, 5:00 p.m.)	1/7/02
11. Contract Award	1/8/02
Note: All dates subsequent to Final Bids submission date are approximate and may be adjusted as conditions dictate without addendum to this RFP.	

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II RULES GOVERNING COMPETITION

A. IDENTIFICATION AND CLASSIFICATION OF RFP REQUIREMENTS

1. Requirements

The State has established certain requirements with respect to bids to be submitted by prospective Bidders. The use of "shall," "must," or "will" (except to indicate simple futurity) in the RFP indicates a requirement or condition from which a deviation if not material may be waived by the State. A deviation from a requirement is material if the deficient response is not in substantial accord with the RFP requirements, provides an advantage to one bidder over other bidders, or has a potentially significant effect on the delivery, quantity or quality of items bid, amount paid to the Bidder, or on the cost to the State. Material deviations cannot be waived.

The word "bid" as used throughout this RFP is intended to mean "proposed," "propose" or "proposal" as appropriate.

2. Desirable Items

The words "should" or "may" in the RFP indicate desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, such a desirable feature, even if material, will not in itself cause rejection of the bid.

B. BIDDING REQUIREMENTS AND CONDITIONS

1. General

This RFP, the evaluation of responses, and the award of any resultant contract shall be made in conformance with current competitive bidding procedures as they relate to the procurement of goods and services by public bodies in the State of California. A bidder's Final Bid is an irrevocable offer for 45 days following the scheduled date for contract award specified in Section I. A bidder may extend the offer in the event of a delay of contract award.

2. RFP Documents

This RFP includes, instructions, which prescribe the format and content of bids to be submitted and the model(s) of the contract(s) to be executed between the State and the successful bidder(s).

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the bidder shall immediately notify the State of such error in writing and request clarification or modification of the document. Modifications will be made by addendum issued pursuant to Paragraph B-7, Addenda. Such clarifications shall be given by written notice to all parties who have submitted an intent to bid for bidding purposes, without divulging the source of the request for same. Insofar as practicable, the State will give such notices to other interested parties, but the State shall not be responsible therefore.

If the RFP contains an error known to the bidder, or an error that reasonably should have been known, the bidder shall bid at its own risk. If the bidder fails to notify the State of the error prior to the date fixed for submission of bids, and is awarded the contract, the bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

3. Examination of the Work

The bidder should carefully examine the entire RFP and any addenda thereto, and all related materials and data referenced in the RFP or otherwise available to the bidder, and should become fully aware of the nature and location of the work, the quantities of the work, and the conditions to be encountered in performing the work. Specific conditions to be examined may be listed in the RFP section on ADMINISTRATIVE REQUIREMENTS.

4. Questions Regarding the RFP

Bidders requiring clarification of the intent or content of this RFP or on procedural matters regarding the competitive bid process may request clarification by submitting questions, with the envelope clearly

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marked "Questions Relating to RFP MSA 0029", to the Department Official listed in Section I. To ensure a response, questions must be received in writing by the scheduled date(s) given in Section I. Question and answer sets will be provided to all bidders without identifying the submitters.

A bidder who desires clarification or further information on the content of the RFP, but whose questions relate to the proprietary aspect of that bidder's proposal and which, if disclosed to other bidders, would expose that bidder's proposal, may submit such questions in the same manner as above, but also marked "CONFIDENTIAL," and not later than the scheduled date specified in Section I to ensure a response. The bidder must explain why any questions are sensitive in nature. If the State concurs that the disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence. If the State does not concur with the proprietary aspect of the question, the question will not be answered in this manner and the bidder will be so notified. In this event, the bidder will be allowed to withdraw the question rather than have it and its answer published.

If the bidder believes that one or more of the RFP requirements is onerous, unfair, or imposes unnecessary constraints to the bidder in proposing less costly or alternate solutions, the bidder may request a change to the RFP by submitting, in writing, the recommended change(s) and the facts substantiating this belief and reasons for making the recommended change. Such request must be submitted to the Department Official by the date specified in Section I for submitting a request for change. **Oral answers shall not be binding on the State.**

5. Bidders' Conference **NOT APPLICABLE**

A Bidders' Conference may be held, during which Bidders will be afforded the opportunity to meet with State personnel and discuss the content of the RFP and the procurement process. Notification of the time and place of such conference, if held, will be made to all Bidders receiving this RFP for bidding purposes. Written questions received prior to the cutoff date for submission of such questions, as noted in Section I, will be answered at the conference without divulging the source of the query.

The State may also accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. A transcript of the questions and appropriate answers will normally be transmitted within approximately ten (10) working days to all Proposers furnished this RFP for bidding purposes. If questions asked at the conference cannot be adequately answered during the discussion, answers will be provided with the transcribed data. Oral answers shall not be binding on the State. See Section I for specific details on the Conference.

6. Bidder's Intention to Submit a Bid

Bidders who have been furnished a copy of the RFP for bidding purposes are asked to state their intention by the date specified in Section I, KEY ACTION DATES, with respect to submission of bids. The State is also interested as to a Bidder's reasons for not submitting a bid; as, for example, requirements which cannot be met or unusual terms and conditions which arbitrarily raise costs. **IT IS VERY IMPORTANT TO THE STATE THAT BIDDER LET THE STATE KNOW WHY THEY MAY CHOOSE NOT TO COMPETE FOR THIS AWARD. IF POTENTIAL BIDDERS DO NOT SHARE THEIR CONCERNS, THE STATE HAS NO WAY OF KNOWING WHAT IS CAUSING SOME BIDDERS TO NOT PARTICIPATE. PLEASE SEND IN YOUR CONCERNS AND THE STATE WILL LET YOU KNOW IF CHANGES ARE MADE TO THE RFP THAT MIGHT CAUSE YOU TO RECONSIDER YOUR DECISION TO NOT BID.**

Bidders are asked to categorize their intent as follows:

- a. Intends to submit a bid and has no problem with the RFP requirements.
- b. Intends to submit a bid, but has one or more problems with the RFP requirements for reasons stated in this response.
- c. Does not intend to submit a bid, for reasons stated in this response, and has no problem with the RFP requirements.

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- d. Does not intend to submit a bid because of one or more problems with the RFP requirements for reasons stated in this response.

If Bidders have indicated significant problems with the RFP requirements, the State will examine the stated reasons for the problems and will attempt to resolve any issues in contention, if not contrary to the State's interest, and will amend the RFP if appropriate. All Bidders who have been furnished a copy of this RFP for bidding purposes and responded with an intent to bid, will be advised by the State of any actions taken as a result of the Bidders' responses. If after such actions, a Bidder determines that the requirements of the RFP unnecessarily restrict its ability to bid, the Bidder is allowed five (5) working days to submit a protest to those RFP requirements or the State's action, according to the instructions contained in paragraph E1 of this section.

Hereafter, for the purposes of the instructions of this RFP, all Bidders who have indicated their intent to submit a Final Bid are called bidders until such time that the bidder withdraws or other facts indicate that the bidder has become non-participating.

7. Addenda

The State may modify the RFP prior to the date fixed for submission of Final Bids by issuance of an addendum to all parties who are participating in the bidding process at the time the addendum is issued, unless the amendments are such as to offer the opportunity for non-participating Bidders to become participating, in which case the addendum will be sent to all parties receiving the RFP for bidding purposes. Addendum will be numbered consecutively. If any Bidder determines that an addendum unnecessarily restricts its ability to bid, the Bidder is allowed five (5) working days to submit a protest to the addendum according to the instructions contained in Paragraph E1 of this section.

8. Removal of Names from Prequalified Bidders List

The Department of General Services may remove the name of any Bidder from its lists of prequalified bidders under any one or more of the following conditions:

- a. A Bidder does not respond by bid to three consecutive calls for bids on equipment, software, or service for which such Bidder has previously requested opportunity to bid.
- b. A Bidder's past performance on State contracts has demonstrated a lack of reliability in complying with and completing such contracts.

9. Bonds

The Data Center reserves the right to require a faithful performance bond or other security document. In the event a surety bond is required by the State which has not been expressly required by the specification, the State will reimburse the Bidder, as an addition to the purchase price, in an amount not exceeding the standard premium on such bond.

10. Discounts-NOT APPLICABLE

11. Joint Bids

A joint bid (two or more bidders quoting jointly on one bid) may be submitted and each participating bidder must sign the joint bid. If the contract is awarded to joint bidders, it shall be one indivisible contract. Each joint bidder will be jointly and severally responsible for the performance of the entire contract, and the joint bidders must designate, in writing, one individual having authority to represent them in all matters relating to the contract. The State assumes no responsibility or obligation for the division of orders or purchases among the joint bidders.

12. Air or Water Pollution Violations

Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or

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Federal air or water pollution control law. Government Code Section 4481 requires the State Water Resources Control Board and the Air Resources Board to notify State agencies of such persons.

Prior to an award, the Department shall ascertain if the intended awardee is a person included in notices from the Boards by reference to notices. In the event of any doubt of the intended awardee's identity or status as a person who is in violation of any State or Federal air or water pollution law, the State will notify the appropriate Board of the proposed award and afford the Board the opportunity to advise the Department that the intended awardee is such a person.

No award will be made to a person who is identified either by the published notices or by advice, as a person in violation of State or Federal air or water pollution control laws.

13. Fair Employment and Housing Commission Regulations

The California Government Code Section 12990 requires all Bidders to have implemented a Nondiscrimination Program before entering into any contract with the State. The Department of Fair Employment and Housing (DFEH) randomly selects and reviews Bidders to ensure their compliance with the law. DFEH periodically disseminates a list of Bidders who have not complied. Any Bidder so identified is ineligible to enter into any State contract.

14. Exclusion for Conflict of Interest

No consultant shall be paid out of State funds for developing recommendations on the acquisition of EDP products or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or could otherwise directly and/or materially benefit from State adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of State funds for developing recommendations on the disposal of State surplus EDP products, if that consultant would directly and/or materially benefit from State adoption of such recommendations.

15. Follow-on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant who contracts with a State agency to develop formal recommendations for the acquisition of EDP products or services is precluded from contracting for any work recommended in the formal recommendations. (Formal recommendations include, among other things, feasibility studies).

16. Disclosure of Financial Interests

Proposals in response to State procurements for assistance in preparation of feasibility studies or the development of recommendations for the acquisition of EDP products and services must disclose any financial interests (i.e., service contract, OEM agreements, remarketing agreements, etc.) that may foreseeable allow the individual or organization submitting the proposal to materially benefit from the State's adoption or a course of action, recommended in the feasibility study or the acquisition recommendations. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendations, the State may reject the proposal.

In addition, should a consultant establish or become aware of such a financial interest during the course of contract performance, the consultant must inform the State in writing within 10 working days. If, in the State's judgment, the newly established financial interest will jeopardize the objectivity of the recommendations, the State shall have the option of terminating the contract.

Failure to disclose a relevant financial interest on the part of a consultant will be deemed grounds for termination of the contract with all associated costs to be borne by the consultant and, in addition, the

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consultant may be excluded from participating in the State's bid process for a period of up to 360 calendar days in accordance with Public Contract Code Section 12102(j).

C. BIDDING STEPS

1. General

The procurement process to be used in this acquisition is composed of at least one phase of bid development. REFER TO SECTION I TO DETERMINE WHICH PHASES AND STEPS ARE INCLUDED IN THIS RFP. There is always a Final Phase.

2. Compliance Phase--NOT APPLICABLE

3. Final Phase

The purpose of the Final Phase is to obtain bids that are responsive in every respect. This phase may include a Draft Bid and will always include a Final Bid, as described below:

NOTE: THIS RFP IS NOT SCHEDULED TO HAVE A DRAFT BID. HOWEVER THE STATE RESERVES THE RIGHT TO CALL THE FINAL BIDS A "DRAFT" SUBMISSION AND ALLOW BIDDERS TO RESUBMIT A CORRECTED BID AFTER THE STATE REVIEWS THE BID RESPONSES WITH THE BIDDERS.

a. Draft Bid

The purpose of the Draft Bid is to provide the State with an "almost final" bid in order to identify any faulty administrative aspect of the bid which, if not corrected, could cause the Final Bid to be rejected for ministerial reasons.

The Draft Bid should correspond to submittals and agreements of the Compliance Phase, if required, and must be complete in every respect as required by the RFP section on PROPOSAL AND BID FORMAT, except cost. The inclusion of cost information in the Draft Bid may be a basis for rejecting the bid and notifying the bidder that further participation in the procurement is prohibited.

REVIEW OF THE DRAFT BID BY THE STATE MAY INCLUDE CONFIDENTIAL DISCUSSIONS WITH INDIVIDUAL BIDDERS AND WILL PROVIDE FEEDBACK TO THE BIDDER PRIOR TO SUBMITTAL OF THE FINAL PROPOSAL. IF NO SUCH DISCUSSION STEP IS INCLUDED IN THE KEY ACTION DATES THEN THE REVIEW OF THE DRAFT BID DOES NOT INCLUDE ANY ASSESSMENT OF THE BID'S RESPONSIVENESS TO THE TECHNICAL REQUIREMENTS OF THE RFP. Regardless of the inclusion of a confidential discussion, the State will notify the bidder of any defects it has detected in the Draft Bid, or of the fact that it did not detect any such defects. Such notification is intended to minimize the risk that the Final Bid will be deemed defective; however, THE STATE WILL NOT PROVIDE ANY WARRANTY THAT ALL DEFECTS HAVE BEEN DETECTED AND THAT SUCH NOTIFICATION WILL NOT PRECLUDE REJECTION OF THE FINAL BID IF SUCH DEFECTS ARE LATER FOUND.

If the State finds it necessary, the State may call for revised Draft Bid submittals or portions thereof. The bidder will be notified of defects discovered in these submittals as well. Again THE STATE WILL NOT PROVIDE ANY WARRANTY THAT ALL DEFECTS HAVE BEEN DETECTED AND THAT SUCH NOTIFICATION WILL NOT PRECLUDE REJECTION OF THE FINAL BID IF SUCH DEFECTS ARE LATER FOUND.

b. Final Bid

The Final Bid must be complete, including all cost information, required signatures, contract language changes agreed to in writing and corrections to those defects noted by the State in its review of the Draft Bid. CHANGES THAT APPEAR IN THE FINAL BID, OTHER THAN

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CORRECTION OF DEFECTS, INCREASE THE RISK THAT THE FINAL BID MAY BE FOUND DEFECTIVE.

b.1. Sealed Cost Openings -**NOT APPLICABLE**

4. Confidentiality

FINAL BIDS ARE PUBLIC UPON OPENING; HOWEVER, THE CONTENTS OF ALL PROPOSALS, DRAFT BIDS, CORRESPONDENCE, AGENDA, MEMORANDA, WORKING PAPERS, OR ANY OTHER MEDIUM WHICH DISCLOSES ANY ASPECT OF A BIDDER'S PROPOSAL SHALL BE HELD IN THE STRICTEST CONFIDENCE UNTIL NOTICE OF INTENT TO AWARD. BIDDERS SHOULD BE AWARE THAT MARKING A DOCUMENT "CONFIDENTIAL" OR "PROPRIETARY" IN A FINAL BID WILL NOT KEEP THAT DOCUMENT FROM BEING RELEASED AFTER NOTICE OF INTENT TO AWARD AS PART OF THE PUBLIC RECORD, UNLESS A COURT HAS ORDERED THE STATE NOT TO RELEASE THE DOCUMENT. THE CONTENT OF ALL WORKING PAPERS AND DISCUSSIONS RELATING TO THE BIDDER'S PROPOSAL SHALL BE HELD CONFIDENTIAL INDEFINITELY UNLESS THE PUBLIC INTEREST IS BEST SERVED BY AN ITEM'S DISCLOSURE BECAUSE OF ITS DIRECT PERTINENCE TO A DECISION, AGREEMENT OR THE EVALUATION OF THE BID. ANY DISCLOSURE OF CONFIDENTIAL INFORMATION BY THE BIDDER IS A BASIS FOR REJECTING THE BIDDER'S PROPOSAL AND RULING THE BIDDER INELIGIBLE TO FURTHER PARTICIPATE. ANY DISCLOSURE OF CONFIDENTIAL INFORMATION BY A STATE EMPLOYEE IS A BASIS FOR DISCIPLINARY ACTION, INCLUDING DISMISSAL FROM STATE EMPLOYMENT, AS PROVIDED BY GOVERNMENT CODE SECTION 19570 ET SEQ. TOTAL CONFIDENTIALITY IS PARAMOUNT; IT CANNOT BE OVER EMPHASIZED.

5. Submission of Proposals and Bids

The instructions contained herein apply to the Final Bid.

a. Preparation

Proposals and bids are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. EMPHASIS SHOULD BE CONCENTRATED ON CONFORMANCE TO THE RFP INSTRUCTIONS, RESPONSIVENESS TO THE RFP REQUIREMENTS, AND ON COMPLETENESS AND CLARITY OF CONTENT.

As stated above, if the State declares the Final Bid as a "Draft Bid" and allows bidders to resubmit a second "Final Bid", the State's evaluation of the Draft Bids is cursory. Therefore, bidders are cautioned to not rely on the State, during these evaluations and reviews, to discover and report to the bidders all defects and errors in the submitted documents. Before submitting each document, the bidder should carefully proof it for errors and adherence to the RFP requirements.

b. Bidder's Cost

Costs for developing proposals and bids are the responsibility entirely of the bidder and shall not be chargeable to the State.

c. Completion of Proposals and Bids

Proposals and bids must be complete in all respects as required by the RFP section on PROPOSAL AND BID FORMAT. A Final Bid may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Bid must be rejected if any such defect or irregularity constitutes a material deviation from the RFP requirements. Exhibit II-A at the end of this Section II entitled COMPETITIVE BIDDING AND BID

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RESPONSIVENESS emphasizes the requirements of competitive bidding and contains examples of common causes for rejection of bids. Bidders are encouraged to review this exhibit.

- d. False or Misleading Statements
Bids which contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the bidder, may be rejected. If, in the opinion of the State, such information was intended to mislead the State in its evaluation of the bid, and the attribute, condition, or capability is a requirement of this RFP, it will be the basis for rejection of the bid.
 - e. Signature of Bid
A cover letter (which shall be considered an integral part of the Final Bid) and Standard Agreement Form 2, or a Bid Form shall be signed by an individual who is authorized to bind the bidding firm contractually. The signature must indicate the title or position that the individual holds in the firm. An unsigned Final Bid shall be rejected.
 - f. Delivery of Proposals and Bids
Mail or deliver proposals and bids to the Department Official listed in Section I. If mailed, use certified or registered mail with return receipt requested.
 - 1. Statements of Qualifications must be received in the number of copies stated in the RFP section on PROPOSAL AND BID FORMAT and not later than the dates and times specified in Section I. One copy must be clearly marked "Master Copy." All copies of Statements of Qualifications must be under sealed cover, which is to be plainly marked "FINAL BID" for "RFP MCA 0029". Also, the sealed cover of all submittals, except the Final Bid, shall be clearly marked "CONFIDENTIAL," and shall state the scheduled date and time for submission. Statements of Qualifications not submitted under sealed cover will be returned. Final Bids not received by the date and time specified in Section I, or not sealed, will be rejected. Proposals and bids submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies of the Statements of Qualifications, the bid may be rejected. However, if not so rejected, the Master Copy will provide the basis for resolving such discrepancies. If one copy of the Final Bid is not clearly marked "Master Copy," the State may reject the bid; however, the State may at its sole option select, immediately after bid opening, one copy to be used as the Master Copy.
 - g. Withdrawal and Resubmission/Modification of Proposals and Bids
A bidder may withdraw its Draft Bid at any time by written notification. A bidder may withdraw its Final Bid at any time prior to the bid submission time specified in Section I by submitting a written notification of withdrawal signed by the bidder authorized in accordance with Paragraph C5e, Signature of Bid. The bidder may thereafter submit a new or modified bid prior to such bid submission time. Modification offered in any other manner, oral or written, will not be considered. Final Bids cannot be changed or withdrawn after the time designated for receipt, except as provided in Paragraph 7d of this section.
6. Rejection of Bids
The State may reject any or all bids and may waive any immaterial deviation or defect in a bid. The State's waiver of any immaterial deviation or defect shall in no way modify the RFP documents or excuse the bidder from full compliance with the RFP specifications if awarded the contract.
7. Evaluation and Selection Process
a. General
Proposals and bids will be evaluated according to the procedures contained in the RFP section on EVALUATION.

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b. Evaluation Questions

During the evaluation and selection process, the State may desire the presence of a bidder's representative for answering specific questions, orally and/or in writing.

c. Demonstration

This procurement may require a demonstration of the bidder's response to specific requirements (including benchmark requirements) before final selection in order to verify the claims made in the bid, corroborate the evaluation of the bid, and confirm that the hardware and software are actually in operation; in which case prior notice will be given. The bidder must make all arrangements for demonstration facilities at no cost to the State. The location of the demonstration will be determined by the bidder; however, its performance within California is preferred and will be attended at the State's expense. Demonstration outside California will be attended only if the bidder agrees to reimburse the State for travel and per diem expenses. The State reserves the right to determine whether or not a demonstration has been successfully passed.

d. Errors in the Final Bid

An error in the Final Bid may cause the rejection of that bid; however, the State may at its sole option retain the bid and make certain corrections.

In determining if a correction will be made, the State will consider the conformance of the bid to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP.

- (1) If the bidder's intent is clearly established based on review of the complete Final Bid submittal, the State may at its sole option correct an error based on that established intent.
- (2) The State may at its sole option correct obvious clerical errors.
- (3) The State may at its sole option correct errors of omission, and in the following four situations, the State will take the indicated actions if the bidder's intent is not clearly established by the complete bid submittal.
 - (a) If an item is described in the narrative and omitted from the contract, it will be interpreted to mean that the item will be provided by the bidder at no cost.
 - (b) If a minor item is not mentioned at all in the Final Bid and is essential to satisfactory performance, the bid will be interpreted to mean that the item will be provided.
 - (c) If a major item is not mentioned at all in the Final Bid, the bid will be interpreted to mean that the bidder does not intend to supply that item.
 - (d) If a major item is omitted, and the omission is not discovered until after contract award, the bidder shall be required to supply that item.

(4) **NOT APPLICABLE TO THIS RFP.**

If a bidder does not follow the instructions for computing costs not related to the contract (e.g., State personnel costs), the State may reject the bid, or at its sole option, recompute such costs based on instructions contained in the RFP.

If the recomputations or interpretations, as applied in accordance with this section, subparagraph d, result in significant changes in the amount of money to be paid to the bidder (if awarded the contract) or in a requirement of the bidder to supply a major item at no cost, the bidder will be given the opportunity to promptly establish the grounds legally justifying relief from its bid.

IT IS ABSOLUTELY ESSENTIAL THAT BIDDERS CAREFULLY REVIEW THE COST ELEMENTS IN THEIR FINAL BID, SINCE THEY WILL NOT HAVE THE OPTION TO CHANGE THEM AFTER THE TIME FOR SUBMITTAL.

- (5) In the event an ambiguity or discrepancy between the general requirements described in Section IV (Proposed Environment) and the Technical Requirements set forth in Section VI

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is detected after the opening of bids, Section VI, and the bidder's response thereto, shall have priority over Section IV, and the bidder's response thereto. Refer to Section II, Paragraph B-2 regarding immediate notification to State contact when ambiguities, discrepancies, omissions, etcetera are discovered.

8. Award of Contract

Award of contracts, if made, will be in accordance with the RFP Section on EVALUATION to responsible bidders whose Final Bids comply with all the requirements of the RFP documents and any addenda thereto, except for such immaterial defects as may be waived by the State. Award, if made, will be made within forty five (45) days after the scheduled date for Contract Award specified in Section I; however, a bidder may extend the offer beyond 45 days in the event of a delay of contract award.

The State reserves the right to determine the successful bidder(s) either on the basis of individual items or on the basis of all items included in its RFP, unless otherwise expressly provided in the State's RFP. The State reserves the right to modify or cancel in whole or in part its RFP.

Unless the bidder specifies otherwise in its bid, the State may accept any item or group of items of any bid. The State reserves the right to modify or cancel in whole or in part its RFP.

Written notification of the State's intent to award will be made to all bidders. If a bidder, having submitted a Final Bid, can show that its bid, instead of the bid selected by the State, should be selected for contract award according to the rules of Section II, Paragraph C7, the bidder will be allowed five (5) working days to submit a protest to the Intent to Award, according to the instructions contained in Paragraph E1 of this section.

9. Debriefing

A debriefing may be held after contract award at the request of any bidder for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the evaluation of the bidder's Final Bid. A debriefing is not the forum to challenge the RFP specifications or requirements.

D. CONTRACTUAL INFORMATION

1. Contract Form

The State has model contract forms and provisions to be used by participating agencies when contracting for services. The model contract(s) appropriate for the specific requirements of this RFP are included in the RFP, although when specific future projects are put out to bid, a specific scope of services will be included in that bid.

2. Specific Terms and Conditions

In traditional competitive bidding, the contract to be awarded is included in the solicitation document in its final form, and any alteration by a bidder will result in rejection of its bid. The State recognizes, however, that the various suppliers of goods and services have developed pricing structures and procedures that differ from each other, and that, if the State were to specify the exact language of the contract to be executed, it could result in firms being unwilling to do business with the State of California because of contract statements which are incompatible with their business methods. In recognition of the above, the form of the contract(s) contained in the attached Appendices permit, where appropriate, the substitution and/or insertion of Bidder's-specified language by the bidder. All such substitutions and insertions must be approved by the Department of General Services. The Department of General Services may request the Department of Finance's concurrence on the approval of changes involving significant issues. Terms and conditions which do not comply in substance with all material requirements of the RFP, which are contrary to the best interests of the State, or which are in opposition to State policy will not be accepted.

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The State will prenegotiate repetitively used terms and conditions with Bidders at their request. These prenegotiated terms and conditions will be kept on file and bidders may refer to them as their proposed contract language for individual solicitations.

3. Approval of Proposed Contract

To comply with the requirements of competitive bidding procedures, the contract must be fixed prior to the submission of the Final Bids; no negotiation is permissible after that time. It is required, therefore, that any Bidder who intends to bid on this RFP submit its proposed contract to the State in accordance with the schedule contained in Section I. If a bidder has prenegotiated language with the State, the bidder may indicate that this is the language proposed and submit only changes to any language that has not been prenegotiated. (For a particular RFP it is possible that prenegotiated language will not be acceptable due to special circumstances. The State will notify the bidder if this is the case and will renegotiate that language for this procurement.) For language that has not been prenegotiated, the proposed contract, or portions thereof, must be submitted in the form of the prescribed model(s), and deviations from the exact language contained in the model(s) must conform to the guidance therein stated. The proposed contract must contain all proposed terms and conditions, and with all blanks filled in, but it must not contain (other than in sample form) any identification of proposed goods or cost data. (Note, however, that the Draft Bid must contain the approved contract with all the blanks filled in except for cost data. The proposed contract must be clearly labeled "Proposed Contract" with the RFP identification from the RFP title page. The State will notify the bidder as to which, if any, terms and conditions are not acceptable to the State and will arrange an appropriate meeting at a mutually satisfactory time to resolve any differences.

Each appendix contains a set of instructions to guide the bidder through a step-by-step procedure to develop proposed new language or changes to model contract language, negotiating contract language and securing State approval. Proposed contract language, which is not prepared in accordance with these instructions, may be returned to the bidder without review by the State.

IT IS ESSENTIAL THAT THE BIDDER'S PROPOSED CONTRACT BE ACCEPTABLE TO THE STATE PRIOR TO THE FINAL BID SUBMISSION DATE. SUCH ACCEPTANCE DOES NOT RELIEVE THE BIDDER OF PROVIDING OTHER NECESSARY INFORMATION REQUIRED IN THE CONTRACT. IF A BID CONTAINS UNAPPROVED CONTRACT LANGUAGE, THE POTENTIAL FOR BID REJECTION IS SUBSTANTIALLY INCREASED.

APPROVED CONTRACT LANGUAGE FOR THIS PARTICULAR RFP WHICH IS NOT PROPRIETARY TO THE BIDDER WILL BE AVAILABLE TO ALL BIDDERS SHORTLY AFTER THE LAST DAY TO NEGOTIATE CONTRACT LANGUAGE.

PRENEGOTIATED TERMS AND CONDITIONS ARE AVAILABLE AT ANY TIME.

4. Term of Contract

The State intends to retain the required services for at least the period of three (3) years with the option to extend the contract for two (2) one (1) year periods. If the State requires the contract to be terminated during the contract period, such a requirement will be specified in the RFP Section on ADMINISTRATIVE REQUIREMENTS. The State will accept a contract for a longer period than specified if, at the sole option of the State, the contract may be terminated at the end of the period specified with or without the payment of termination charges. Such termination charges, if any, must be included in the evaluated cost of the bid.

E. OTHER INFORMATION

1. Protests

Before a protest is submitted regarding any issue other than selection of the "successful Bidder," the bidder must make full and timely use of the procedures described in this Section II to resolve any outstanding issue(s) between the bidder and the State. The procurement procedure is designed to give

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SECTION II

the bidder and the State adequate opportunity to submit questions and discuss the requirements, proposals and counter proposals before the Final Bid is due. The protest procedure is made available in the event that a bidder cannot reach a fair agreement with the State after exhausting these procedures. In such cases, protest may be submitted according to the procedure below.

If a bidder has submitted a bid which it believes to be totally responsive to the requirements of the RFP and to be the bid that should have been selected according to the evaluation procedure in the Section on EVALUATION and the bidder believes the State has incorrectly selected another bidder for award, the bidder may submit a protest of the selection as described below. Protests regarding selection of the "successful Bidder" will be heard and resolved by the State Board of Control whose decision will be final.

To file a protest, protestors should file a written statement of protest, including RFP number, name of department and office involved, and the name of the office contact person, may be submitted to the following:

Deputy Director
Procurement Division
1823 14th St.
Sacramento, CA
FAX- 916-327-7593

2. News Releases
Any publications or news releases relating to a contract resulting from this RFP shall not be made without prior written approval of the Department of General Services, Procurement Division.
3. Disposition of Proposals and Bids
All materials submitted in response to this RFP will become the property of the State of California and will be returned only at the State's option and at the bidder's expense. The Master Copy shall be retained for official files and will become a public record after the date and time for Final Bid submission as specified in Section I, KEY ACTION DATES. However, confidential financial information submitted in support of the requirement to show bidder responsibility will be returned upon request.
4. Contacts for Information
Bidders may contact the Department Contact listed in Section I for clarifications and questions on the RFP.

Oral communications of department officers and employees concerning this RFP shall not be binding on the State and shall in no way excuse the bidder of any obligations set forth in this RFP.

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Exhibit II–A

COMPETITIVE BIDDING AND BID RESPONSIVENESS

The purpose of competitive bidding is to secure public objectives in the most value-effective manner and avoid the possibilities of graft, fraud, collusion, etc. Competitive bidding is designed to benefit the public body (the State, in the present context), and is not for the benefit of the bidders. It is administered to accomplish its purposes with sole reference to the public interest. It is based upon full and free bidding to satisfy State specifications and acceptance by the State of the most value-effective solution to the State's requirements, as determined by the evaluation criteria contained in the RFP.

Competitive bidding is not defined in any single statute but is more in the nature of a compendium of numerous court decisions. From such court decisions, the following rules have evolved, among others:

1. Invitations for Bids must provide a basis for full and fair competitive bidding among bidders on a common standard, free of restrictions tending to stifle competition.
2. The State may modify the RFP, prior to the date fixed for submission of bids, by issuance of an addendum to all parties who have been furnished with the RFP for bidding purposes.
3. To have a valid bid, the bid must respond and conform to the invitation, including all the documents, which are incorporated therein. A bid, which does not literally comply, may be rejected.
4. For a variance between the request for bids and the bid to be such as to preclude acceptance (the bid must be rejected), the variance or deviation must be a material one.
5. State agencies usually have the express or implied right to reject any and all bids in the best interests of the State. Bids cannot, however, be selectively rejected without cause.
6. Bids cannot be changed after the time designated for receipt and opening thereof. No negotiation as to the scope of the work, amount to be paid or contractual terms is permitted.
7. A competitive bid, once opened and declared, is in the nature of an irrevocable option and a contract right of which the public agency cannot be deprived without its consent, unless the requirements for rescission are present. All bids become public documents.
8. Bids cannot be accepted "in part," unless the invitation specifically permits such an award.
9. Contracts entered into through the competitive bidding process cannot later be amended, unless the Invitation for Bids includes a provision, to be incorporated in the contract awarded, providing for such amendment.

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SECTION II

Exhibit II–A (Continued)

Since competitive procurement became the required method for securing goods or services, the State has received a number of bid response statements which were deemed to be non-responsive to the RFP which could not be considered as valid bids within the competitive bidding procedures. Non-responsive RFPs, which contain qualifications, must be rejected. Many of the causes for rejection arise from either an incomplete understanding of the competitive bidding process or administrative oversight on the part of the bidders. The following examples are illustrative of more common causes for rejection of bids. These examples are listed to assist potential bidders in submission of responsive bids.

1. A bid stated, "The prices and information stated within are for your information only and are subject to change."
2. A bid stated, "This proposal shall expire thirty (30) days from this date unless extended in writing by the ____ Company." (In this instance award was scheduled to be approximately 45 days after bid submittal date.)
3. A bid for lease of equipment contained lease plans of a duration shorter than that, which had been requested in the RFP.
4. A personal services contract stated, "_____, in its judgment, believes that the schedules set by the State are extremely optimistic and probably unobtainable. Nevertheless, ____ will exercise its best efforts..."
5. A bid stated, "This proposal is not intended to be of a contractual nature."
6. A bid contained the notation "prices are subject to change without notice."
7. A bid was received for the purchase of equipment with unacceptable modifications to the Purchase Contract.
8. A bid for lease of equipment contained lease plans of a duration longer than that, which had been requested in the RFP with no provision for earlier termination of the contract.
9. A bid for lease of equipment stated, "...this proposal is preliminary only and the order, when issued, shall constitute the only legally binding commitment of the parties."
10. A bid was delivered to the wrong office.
11. A bid was delivered after the date and time specified in the RFP.
12. A bid did not meet contract goal for DVBE participation and did not follow the steps required by the bid to achieve a "good faith effort."
13. A bid appeared to meet contract goal for DVBE participation with the dollars submitted, but the Bidder had miscalculated the bid costs. When these corrections were made by the State, the Bidder's price had increased and the dollars committed for DVBE participation no longer met goal. The Bidder had not followed the steps to achieve a "good faith effort."

III. CURRENT SYSTEM

The State has numerous Data Centers the largest of which are the Health & Human Service Data Center (HHSDC), Stephen P. Teale Data Center, Legislative Data Center and Hawking Data Center. These larger Data Centers service numerous agencies and their varied application. Additionally, there agency Data Center that fulfill agency needs not housed at one of the larger Data Centers. Currently each Data Center may require this type of service, which require an enormous amount of staff time and resources to bid. All the Data Centers, from the largest to the smallest are growing dramatically and are in need of these services. Currently there is no convent contracting method in place to acquire these services.

SECTION IV

IV. PROPOSED SYSTEM

The purpose of this "Request for Proposal" (RFP) is to establish a pool of prequalified contractors to provide emergency data processing services for the State and local agency Data Centers in the event of their inability to continue computing operations due to a disaster.

The Data Center will solicit the contractor(s) from the pool with a statement of work for the contractor(s) to provide pricing to meet the Data Center needs. The Data Center will choose the contractor that is the best value to the Data Center for the services required. The contractor must be able to provide hot site services to the Data Centers statewide for the term of the contract. A hot site is a site that provides customers with a testable facility to which customers can transfer critical data processing functions at the time of a disaster. This hot site must have the latest technological advances in design, computer hardware, including data storage subsystems, and telecommunications capability, as well as conference rooms, office space, support areas, a full complement of on-site technical specialists, and must be located in areas other than the location of the Data Center they will serve as a hot site for. In the event of a disaster, customers must have unrestricted access to these facilities. As part of the monthly subscription fee to a hot site, semi-annually testing must be included which will help in the transition phase from disaster site to the hot site.

The State intends to award a three (3) year contract to the pool of prequalified contractors with an option for the State to renew the contract for two (2) additional one year terms. A statement of work requested by a Data Center can be for up to a five (5) year period.

The State at its option may solicit additional contractors to be added to this prequalified pool.

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V ADMINISTRATIVE REQUIREMENTS

A. INTRODUCTION

In addition to meeting the requirements as identified in Section VI, the contractor must adhere to all administrative requirements of this application to be responsive. These include the rules in Section II, RULES GOVERNING COMPETITION, the KEY ACTION DATES, submit specified in Section I, INTRODUCTION AND OVERVIEW OF REQUIREMENTS, SECTION V, and the format specified in Section VIII, PROPOSAL FORMAT.

Bidders intending to participate in this RFP are asked to state their intention by the date specified in Section I.F, KEY ACTION DATES, using the form included as Exhibit V-A.

Section V contains Administrative Requirements that the bidder must agree to, if so indicated, in their bid response. Section VI requires bidders to provide information regarding their contractor, which will be evaluated and scored. Those bidders who meet the selection criteria in Section IX will be included in the resulting Multiple Award Contract. The State has a predetermined rating structure that bids will be evaluated against. See Section IX for more information on how bids will be evaluated, and how bids will be ranked.

Throughout this section, as well as Section VI, bidders are to show their agreement to the requirements by checking or initialing the "Yes" box where asked for, as well as providing the asked for information, if applicable.

B. AGREEMENT TO RESPOND TO FUTURE SPECIFIC PROPOSALS

The state will be issuing specific projects that the prequalified contractors who are listed on the Multiple Award Contract will be asked to respond to. From these specific proposals, actual contract awards will be made. The Procurement Division will be coordinating this process. Contractors who make the Multiple Award Contract will be expected to respond by providing a specific price to do the project to these specific proposals. Contractors who are not able to provide a quote because the project has requirements that they simply cannot provide are still expected to respond to the request, providing an explanation as to why they are unable to provide a quote. Should a contractor fail to respond to more than three requests per calendar year, the state has the right to remove the contractor from the Multiple Award Contract.

Contractor agrees to the above requirement. YES_____ NO_____

C. AGREEMENT TO INCORPORATE SPECIFIC FUTURE SCOPE OF SERVICES AGREEMENTS INTO THE ATTACHED MODEL CONTRACTS

When specific future projects are bid and eventually awarded, there will be a specific statement of work that the project will require the selected contractor to agree to and provide. This will be incorporated into the attached model contracts, and will become part of the eventual contract. The proposer must agree to the terms of the specific scope of services, (which will be issued with the actual project) and that it will become part of the project contract. If the contractor cannot agree to the terms and conditions, they will not be eligible for contract award on the specific future projects.

Contractor agrees to the above requirement. YES_____ NO_____

D. PAYMENT TO CONTRACTOR

The Contractor will invoice the agency on the basis as identified in the specific agreement that is ultimately created for specific projects. The contractor must send a copy of the invoice to the Procurement Division for monitoring purposes.

Contractor agrees to the above requirement. YES_____ NO_____

E. PROCUREMENT DIVISION'S CONTROL OF THIS MULTIPLE AWARD CONTRACT

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The use of this Multiple Award Contract will be controlled by the Department of General Services, Procurement Division. State agencies may not contract with the eventual contractors who make the "pool" without the involvement and approval or delegation of the Procurement Division. Contractors may let potential clients know that they are in the Multiple Award Contract, but they are not allowed to provide quotes to potential agencies without the Procurement Division's involvement. Contractors who are approached by agencies for quotes are to report such to the Procurement Division. Contractors who do not comply may be removed from the "pool".

Contractor agrees to the above requirement. YES_____ NO_____

F. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENT

Because the State is not making, any specific work guarantees to any contractor who is included in the pool of prequalified Contractors, the DVBE contracting goals are waived for this RFP. However, bidders are encouraged to voluntarily seek out and utilize DVBE contractors.

There may be DVBE goals on the future specific projects. These goals will be identified in the details of the project. Bidders must meet the goals or make a full and documented "good faith effort" to be eligible for the award.

Contractor agrees to the above requirement. YES_____ NO_____

G. ADDITIONAL STATE ADMINISTRATIVE REQUIREMENTS

1. Each contract for services executed with a qualifying contractor must be amendable by mutual consent of the governmental agency and the contractor. At the time of actual contract award, contractor will submit a letter certifying all previously submitted information is correct or schedule all changes.
2. The Prime contractors is responsible for ensuring that the work they perform adheres to all Administrative Requirements and the requirements set forth in future SOW's resulting from this Multiple Award Contract (MAC). The Prim contractor is also responsible for ensuring that any subcontractors used adheres to the applicable Administrative Requirements and the applicable requirements set forth in future SOW's.

The Prime must have the written permission of the State to use or replace any subcontractor. If a the use of a subcontractor is no longer possible and/or needs to be replaced during the performance of the SOW then Prime must notify the State and the subcontractor as to why the subcontractor is being replace. If the Prime was relying on that subcontractor's qualifications to meet various requirements, a subcontractor of equal or greater qualifications must be proposed. The State will make a determination if the Prime is still qualified to be considered for the project. Agencies using this MAC may consider the qualifications of subcontractors when making their selection of a Prime contractor. Therefore, all work provided by subcontractors should be well documented and the Prime must explain how they will manage and control the work of the subcontractors in the SOW response.

3. Bidders must complete the Standard 19, Non-discrimination Compliance Statement as Exhibit V-B, and submit it with their Final Proposal. This form can be downloaded from the following website: http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

Form submitted as Exhibit B YES_____ NO_____

4. Bidders must complete STD.21, Drug Free Workplace Certification as Exhibit V-C, and submit it with their Final Proposal. This form can be downloaded from the following website: http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

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Form submitted as Exhibit B YES_____ NO_____

5. Bidders must complete STD 204, Payee Data Record as Exhibit V-D, and submit it with their Final Proposal. This form can be downloaded from the following website:
http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

Form submitted as Exhibit B YES_____ NO_____

7. Domestic and Foreign Business Entities: All domestic and foreign business entities (those established outside of California) must be registered with the Office of Secretary of State and be in good standing and be qualified to do business as required under California law.
8. Subcontractor Information: Subcontractors, if being used, must be listed below. A prime contractor using a subcontractor to fulfill a requirement for this RFP must use that subcontractor in all future contracts where that subcontractor's experience was used to fulfill a requirement. Upon award to a prime contractor, notice shall be given to the contractors listed below of their participation in the contract. Notification to the subcontractor by the prime contractor is encouraged immediately after award of an RFP for services. Subcontractors must be listed below: (Use additional pages if more space is needed).

Contractor Name

Contact Name

Address

Phone Number

City, State of Californai

Fax Number

Email address

Contractor agrees to the above requirements. YES_____ NO_____

H. NOTICE OF NON-GUARANTEE OF WORK

Bidders must be aware that the State makes no guarantee of any amount of work through this RFP. There is no minimum amount of work that bidders can expect. In addition, bidders must understand that some contractors on the eventual schedule may get more work than others, and some may not get any work at all.

Contractor agrees to the above requirement. YES_____ NO_____

I. ADDITIONAL STATE MULTIPLE AWARD CONTRACT REPORTING REQUIREMENTS

Bidders who are successful in being included in the Multiple Award Contract for services are required to complete and submit various activity and tracking forms in order for the State to monitor and keep track of utilization of this service. These forms must be submitted in a timely fashion, to the designated Department of General Services, Procurement Division person as identified.

Bidders who are successful in being included in the Multiple Award Contract, when talking to prospective clients must not, in their marketing efforts, imply that they have any more DGS recommendation over any other successful contractor. In addition, since the use of this Multiple Award Contract is at the discretion of the using state or local agency, contractors who make the pool must not imply that an agency must use one of the contractor's in the pool only. It is always the option of a State or local agency to seek alternative ways to procure services, as they do not have to use this Multiple Award Contract. The Multiple Award Contract is only one tool that they may choose to use.

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Contractor agrees to the above requirement. YES_____ NO_____

J. AMERICANS WITH DISABILITIES ACT NOTICE

To meet and carry out compliance with the non-discrimination requirements of Title II of the Americans with Disabilities Act (ADA), it is the policy of the Procurement Division (within the State Department of General Services) to make every effort to ensure that its programs, activities, employment opportunities, and services are available to all persons, including persons with disabilities.

For persons with a disability needing reasonable accommodation to participate in the Procurement process, or for persons having questions regarding reasonable accommodation for the Procurement process, please contact the Procurement Division at (916) 445-2500 (main office); the Procurement Division TTY/TDD (telephone device for the deaf) and the California Relay Service numbers are Listed below. You may also contact directly the Procurement Division contacts person that is handling this procurement.

IMPORTANT: TO ENSURE THAT WE CAN MEET YOUR ACCOMMODATION, IT IS BEST THAT WE RECEIVE YOUR REQUEST AT LEAST 10 WORKING DAYS BEFORE THE SCHEDULED EVENT (i.e., MEETING, CONFERENCE, WORKSHOP, ETC.) OR DEADLINE DUE DATE FOR PROCUREMENT DOCUMENTS.

The Procurement Division TTY telephone numbers are:

Sacramento Office: (916) 322-7535

Fullerton Office: (714) 773-2093

The California Relay Service Telephone Numbers are:

Voice: 1-800-735-2922

TTY: 1-800-735-2929

K. FORCED, CONVICT, AND INDENTURED LABOR

A. By signing this solicitation the contractor hereby certifies that no foreign-made equipment, materials, for supplies furnished to the State pursuant to the Solicitation will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. By signing this Solicitation, the contractor or grantee agrees to comply with the requirements of Public Contract Code (PCC), Section 6108.

B. Any contractor contracting with the State who knew or should have known that the foreign made equipment, materials or supplies furnished to the State were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to the above (a), may, subject to PCC, Section 6108, subdivision (c) have any or all of the following sanctions imposed:

(1) The contract under which the prohibited equipment, materials or supplies were provided may be voided at the option of the state agency to which the equipment, materials or supplies were provided.

(2) The contractor may be assessed a penalty which shall be the greater of one thousand (\$1,000) or an amount equaling 20 percent of the value of the equipment, materials, or supplies that the state agency demonstrates were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

(3) The contractor may be removed from the bidder's schedule for a period not to exceed 360 days.

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Contractor agrees to the above requirement. YES_____ NO_____

L. REQUEST FOR ADDITIONAL INFORMATION NOTICE

If during the evaluation process, the State is unable to assure itself of the contractor's ability to perform under the contract, if awarded, the State has the option of requesting from the contractor any financial or past performance information, which the State deems necessary to determine the contractor's responsibility. If such information is required, the contractor will be so notified and will be permitted five working days to submit the information.

If the information submitted by the contractor, or available from other sources, is insufficient to satisfy the State as to the contractor's contractual responsibility, the State may ask for additional information or reject the proposal. The State's determination of the contractor's responsibility, for the purpose of this RFP, shall be final.

Contractor agrees to the above requirement. YES_____ NO_____

M. EVALUATION

The ultimate client agency will be asked to provide evaluations of the contractor's performance after the project is complete.

The contractor will be given an opportunity to respond to any negative evaluations. These evaluations and any responses will be made available to all participants utilizing the State's Multiple Award Contract.

Contractor agrees to the above requirement. YES_____ NO_____

N. GROUND FOR DISQUALIFICATION FROM MULTIPLE AWARD CONTRACT

1. Grounds for Disqualification:

Under certain circumstances, contractors may be eliminated from the Multiple Award Contract. These circumstances include, but are not limited to:

- Misrepresenting fee structure during interview
- Making misrepresentations in describing the matrix of completed projects
- Making misrepresentations in describing any legal issue.
- Material misrepresentation on any aspect of project development and implementation
- Failure to provide the quarterly Status Report.

Contractor agrees to the above requirement? YES_____ NO_____

2. Due Process Procedure

If it is determined there are grounds for elimination from the Multiple Award Contract, the following process will be initiated:

The contractor will be sent a Notice of Proposed Disqualification.

The contractor will have 10 working days to respond.

The Procurement Division's Deputy Director in consultation with the DGS Office of Legal Services will render the final decision.

Contractor agrees to the above requirement. YES_____ NO_____

O. PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT, ETC

The Data Center reserves the right to require either a performance bond, irrevocable letter of

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credit, etc. for each specific project awarded after the establishment of the Multiple Award Contract. The amount that will need to be provided (if required) will be identified in the future specific projects. Bidders to the future bids may be required to obtain and present such items. If asked for and not provided, their bid on the future projects may be disqualified.

If a bond is required in a future project the contractor who is allowed to proceed on to a specific project, shall supply a bond to ensure contract performance and guarantee deliverables by deadlines. This shall be delivered to the state within 10 days of signing the contract and returned to the contractor upon receipt of all notification that the project is completed. The bond will not be returned upon contract cancellation due to non-performance. Other terms may be identified for letters of credit, etc.

Bidder agrees to the above requirements. YES _____ NO _____

P. SMALL BUSINESS PARTICIPATION ENCOURAGEMENT

Public Contract code 14845. (c) states, " Whenever the director consolidates the needs of multiple state agencies and establishes a contract for repetitively purchased or commonly needed goods or services, the director shall both encourage bidders to utilize small business suppliers and subcontractors, and utilize multiple award methods whenever practicable to further ensure that a fair proportion of needed goods and services are obtained from small businesses."

Bidders responding to this RFP are encouraged to utilize small businesses whenever possible.

Contractor agrees to the above requirement. YES _____ NO _____

NOTICE REGARDING BIDDING PREFERENCES:

Following in Sections Q-T are provisions dealing with various bidding preferences. They will not factor in the determination of which Bidders make the Multiple Award Contract, since there is no specific pricing to be supplied with the response to this RFP. However, preferences will apply to the eventual awards made on specific projects.

Q. SMALL BUSINESS PREFERENCE

1. Section 14835, et. Seq. Of the California Government Code requires a 5% preference be given to bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of goods and services are contained in Title 2, California Code of Regulations, Section 1896, and et. Seq. A copy of the regulations is available upon request from the Office of Small Business Certification and Resources. Small businesses are desired and encouraged to participate in this RFP. The state has intentionally created the small budget categories to encourage small business participation.
2. To claim the small business preference, which may not exceed \$50,000 for any bid, the contractor must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the State Office of Small Business Certification and Resources by 5:00 p.m. on the date the bid response is due, and be verified by such office. Questions regarding the preference approval process should be directed to the Office of Small Business Certification and Resources at (916) 322-5060.
3. The cost proposal will be weighted after consideration of the small business preference, if applicable. If the highest scoring proposal is a certified small business, there is no need to adjust the scores. If the highest scoring bidder is not a certified small business, then the score of all the certified small businesses shall be adjusted as follows: a preference equal to 5% of the cost component of the highest scored proposal shall be computed and shall constitute the

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small business preference amount. Next, the preference amount shall be subtracted from the cost component of the proposal submitted by certified small business bidders and the price scoring of the proposals shall be adjusted accordingly.

ALL BIDDERS, PLEASE CHECK THE APPROPRIATE LINE:

_____ I am a certified small business and the Small Business Preference is applicable to this bid. A copy of my certified form from the Office of Small Business Certification and Resources is attached.

_____ I have recently filed for small business preference but have not yet received certification.

_____ I am not a certified small business and am not claiming the preference.

Name of Bidder _____,
Signature _____

R. TARGET AREA CONTRACT PREFERENCE

Target Area Contract Preference will be granted to California based contractor's in accordance with Government Code Section 4530 whenever contracts for goods or services are in excess of \$100,000 and the Bidders meet certain requirements as defined in the California Administrative Code (Title 2, Section 1806.30 et. seq.) regarding labor needed to provide the goods being procured.

Contractor's questions regarding this preference are to be directed to the Office of Small Business Certification and Resources, 1531 I Street, Second Floor, Sacramento, California, 93814-2016. Bidders desiring to claim this preference for services must submit a fully executed copy of Standard Form 830 as Exhibit V-E with the Final Proposal. This form can be downloaded from the following website: http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

Bidders do not need to do anything regarding the above section, unless they are applying for the preference. If the preference is being sought, please check here._____

S. ENTERPRISE ZONE ACT

Government Code Section 7070, et. seq., provides that California based companies may be granted preferences when bidding on State contracts in excess of \$100,000 for goods and services (excluding construction contracts) if the business site is located within designated "Enterprise Zones". Bidders desiring to claim this preference must submit a fully executed copy of the Standard Form 831S, as Exhibit V-F with their Final Proposal. This form can be downloaded from the following website:
http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

Bidders do not need to do anything regarding the above section, unless they are applying for the preference. If the preference is being sought, please check here._____

T. LOCAL AGENCY MILITARY BASE RECOVERY ACT (LAMBRA)

California Government Code Section 7117, et. seq. and California Code of Regulations, Title 2, Section 1896. 1000 et. Seq. Provides that California based companies may be granted preferences when bidding on State contracts in excess of \$100,000 if they qualify and apply for the LAMBRA preference.

Bidders desiring to claim this preference must submit a fully executed copy of the Standard Form

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832, Exhibit V-G with their Final Proposal. This form can be downloaded from the following website: http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

Bidders do not need to do anything regarding the above section, unless they are applying for the preference. If the preference is being sought, please check here._____

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EXHIBIT V-A
LETTER OF INTENT TO RESPOND

Date: _____

Scott Norton
Department of General Services
Procurement Division
Technology Acquisitions Section
1823 14th Street
Sacramento, CA 95814

Reference: MULTIPLE AWARD CONTRACT RFP MSA - 0029

Dear Mr. Norton:

This is to notify you that (business' name) _____ intends to bid on the State's RFP MSA 0029, Multiple Award Contract for Hot Site services.

The individual to whom all information regarding this bid should be transmitted to is:

As requested, we are enclosing our proposed contract language changes.

Sincerely,

Name Title

Company Name

Address

City State Zip Code

(_____) _____
Phone Fax

E- Mail Address: _____

RFP MAC 0029
SECTION V

EXHIBIT B
PLACE HOLDER
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RFP MAC 0029
SECTION V

EXHIBIT C
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RFP MAC 0029
SECTION V

EXHIBIT D
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SECTION V

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RFP MAC 0029
SECTION V

EXHIBIT F
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RFP MAC 0029
SECTION V

EXHIBIT G
PLACE HOLDER
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This form can be downloaded from the following website:
http://www.osp.dgs.ca.gov/default.asp?mp=../fmc/std_index.asp

VI. TECHNICAL REQUIREMENTS

A. GENERAL

This section contains the detailed technical requirements. See Section V, ADMINISTRATIVE REQUIREMENTS; Section VIII, BID FORMAT; and Section II, RULES GOVERNING COMPETITION for other requirements that must be met in order to be considered responsive to this RFP.

The State has determined that it is best to define its own needs, desired operating objectives, and desired operating environment. The State will not tailor these needs to fit some solution a contractor may have available; rather, the contractor shall propose to meet the State's needs as defined in this RFP.

Use the State's form as provided in this section. DO NOT RE-TYPE THIS SECTION. If more room is needed for the discussion or description area, state in the discussion or description area "See attached" and attach a new sheet, immediately following, with the requirement number and the discussion or description.

This section indicates the service standards required for this contract. Additionally, some of the requirements in this section will be "Value Effective," indicating evaluation points will be added to that requirement. "Value Effective" items will be labeled "MS" (Mandatory Scorable) in the margin. Points will be awarded based on the evaluation criteria listed in Section IX.

Requirements within this section are MANDATORY. **Failure** to respond to mandatory requirements will cause the bid to be considered nonresponsive and rejected. Requirements in this section are categorized as either MANDATORY NON-SCORABLE, or MANDATORY SCORABLE.

1. Mandatory Non-Scorable (MN)

Requirements which are MANDATORY MUST be met in their entirety and are indicated by an "MN" in the left margin. This classification will be evaluated on a pass/fail basis. FAILURE TO MEET THE REQUIREMENTS WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL.

2. Mandatory Scorable (MS) of Variable Value

Those requirements which are MANDATORY and scored are classed as MANDATORY SCORABLE. These are indicated in the left margin by an "MS." First, the response will be evaluated to determine if it meets the minimum requirements. If the requirements have been exceeded, points may be awarded. FAILURE TO MEET THE REQUIREMENTS WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL.

The points shown in Section IX, Evaluation, are the **MAXIMUM** possible value effective points which may be awarded for the particular requirement. Points will be awarded based on the information provided by the bidder in Section VI, Technical Requirements.

And/or value effective points will be accumulative and awarded as evaluated by the State and documented by the vendor.

All solutions must be year 2000 compliant.

RFP MAC 0029
SECTION VI

B. HOT SITE REQUIREMENTS

When responding to a future Statement of Work for a Data Center;

- MN 1. The contractor must describe their process for an allocation of resources in the case of multiple disasters and how they will accommodate multiple subscribers simultaneously in the event of multiple disasters. (The SOW will define the agencies actual needs for resources and equipment which may require multiple sites).

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

- MN 2. The contractor will be required to give the Data Center a statement of assurance that appropriate hardware necessary to support future Data Center requirements will be provided if requested by the Data Center.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

- MN 3. The State will provide a list of equipment, software and other related items to be supported in the Statement of Work (SOW). The contractor agrees when responding to the SOW and to provide a list of equipment, software and other related items currently on site that can meet the needs outlined in the SOW.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

- MN 4. The contractor must notify the Data Center thirty (30) days prior to any changes to the hardware configuration.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

MN

5. Deleted

MN

6. The contractor must assign a support representative immediately upon execution of a signed Statement of Work by the Data Center.

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

C.

SECURITY REQUIREMENTS

MN

1. Twenty four (24) hours physical security must be provided by the use of card access control, or equivalent, to the facility itself, as well as computer areas (hot sites) within the facility. The site must be protected by video surveillance, fire and smoke detectors, water detectors and automatic alarms.

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

MN

2. Provision must be made for a secure computer system (e.g. DASD cannot be shared with any other non- Data Center host).

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

MN

3. The contractor must include a description of their approach and experience in the selection of a hot site location as it relates to risk analysis. The contractor agrees, if required, in the SOW to provide a detailed risk analysis of the proposed facility/facilities.

RFP MAC 0029
SECTION VI

The risk analysis may require the contractor to address such items as fire, flood, electrical disturbances, loss of data communications capability, identification of threats to information assets could be exposed assessment of vulnerabilities and other items as deemed necessary by the agency and or State.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

D. FACILITIES REQUIREMENTS

- MN 1. The contractor must have multiple facilities nationwide, (that will support the Data Center required configuration) to allow for multiple disasters, whereby one facility would be occupied to capacity. Each of the facilities must have equipment that is configured interchangeably. The contractor must provide the Data Center with the hardware information on each of these facilities.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

- MN 2. The facilities must be within a one (1) hour drive to major airports so that transportation of recovery personnel and data can be easily facilitated.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

- MN 3. "Cold site," or "shell" facilities must be available to accommodate the equipment configuration as set forth in the Statement of work when issued.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

MN

4. Contractor must provide secure, climate controlled on-site storage spaces (including supply cabinets) for documentation, paper forms, and storage racks for a magnetic cartridges and reel tapes. The SOW will determine the specific need for storage.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

5. The contractor must provide assistance in obtaining cartridges and reel tapes for daily and weekly backups in the first week of actual recovery processing.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

6. Hot site facilities must be available and accessible twenty-four hours per day, seven (7) days per week.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

7. The hot site facilities must be able to perform the Data Center processing continuously for a minimum of six (6) weeks.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

MN

8. A facilities engineer must be on-site twenty-four (24) hours per day, seven (7) days per week.

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

MN

9. The facilities must contain areas for eating and relaxation that are available twenty-four (24) hours per day, seven (7) days per week.

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

MS

10. The hot site must have a UPS system (Uninterrupted Power Supply) with a minimum of 1900 KVA load Diesel Generators sized to support all of the Data Center's hot site requirements and keep the facilities up and running indefinitely in the event of a prolonged power outage.

150

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

DISCUSSION/DESCRIPTION:

Total points _____

1 Generator 50 points or

2 Generators 100 points or

3 Generators 150 points

MS

11. The hot site must have a redundancy built into its chiller plant, capable of carrying the cooling load of 400 tons. These - chillers must also be supported by diesel generators.

150

MEETS REQUIREMENTS: YES _____ NO _____

REFERENCE: DOCUMENT _____ PAGE(S) _____

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DISCUSSION/DESCRIPTION:

Total points _____	
2 - 3 Chillers to support 400 tons	150 points
4 - 5 Chillers to support 400 tons	100 points
6 or more Chillers to support 400 tons	50 points

MN

12. The UPS/Diesel generator system must be tested at least twice a year. Such tests should simulate a power failure and require the diesels to run for at least four (4) hours at full rated load. Data Center staff reserves the right to witness these tests. Any failures of the UPS system will be repaired as soon as possible.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

13. The hot site must have a loading dock adequate in size to accommodate a 40 foot semi truck trailer.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

14. The facilities automatic environmental controls must regulate air quality, temperature, humidity, fire and flood alarms, and fire suppression systems. The facilities automatic building environmental control must maintain temperature between 65-75 degrees Fahrenheit, humidity between 35% and 75% with a minimum of 65% efficiently filtration systems.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

MN

15. Office and workspaces for twenty-five (25) people must be provided for conducting Dara Center recovery and management activities. Office and work areas shall be one or several conference type rooms with tables, chairs, chalkboards, and/or easels. Telephones shall be provided in all such areas, and there must be capability of computer terminal hookup in the work areas.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

16. The hot site must have a Fire Suppression System with an audible warning (buzzer – bell etc.) system, giving at least a 30-second warning before the dump of a fire suppression substance. Hot site must have an automatic fire suppression system meeting current National Fire Protection Agency, NFPA Code Section 12A.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

E. SUPPORT SERVICES REQUIREMENTS

MN

1. Contractor must provide sufficient technical staff to adequately assist in modification of software required to run on contractor's system. These modifications shall include hardware address changes, communication feature changes, and any and all other changes to the software as required. This staff must be available during testing periods at the contractor's facility as well as during any actual disaster recovery activities.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

2. Contractor must provide operational staff assistance, particularly during initial testing periods, in both system operational and network control center functions. Assistance shall also be required during actual disaster recovery operations.

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SECTION VI

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

3. Contractor must provide clerical assistance, in the areas of typing, answering telephones, and other administrative duties on an as needed basis.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

4. Contractor shall provide an orientation session at the contractor's facility to acquaint the Data Center Operational Recovery team and system programming staff with computer system descriptions, features and operational procedures necessary for testing and actual recovery functions.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

5. Contractor upon request shall provide at least six (6) copies of all documentation describing operation and procedures of the facility.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

6. Contractor shall provide on-site technical reference documentation at the remote location, based on the contracted hardware/software required by the Data Center.

MEETS REQUIREMENTS: YES _____ NO _____

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REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

7. Contractor shall provide procedures for verifying, qualifying, and authenticating disaster notification calls from the Data Center personnel including a call back authorization process to one of the designated personnel on an authorized list to verify that a notification call was actually made. These procedures shall include lists of authorized Data Center personnel (to be submitted by the Data Center) who may declare disasters, and call back techniques to authenticate those personnel.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MS

8. Contractor shall assist the Date Center in contacting vendors in obtaining and installing replacement equipment within six (6) weeks of a declared disaster.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
6 Weeks	50 points or
4 - 5 Weeks	100 points or
2 - 3 Weeks	150 points

MN

9. Contractor must have the ability to provide recovery/resumption services for the Data Center and its customers. The service options may include but not limited to the following: Crisis response team; Relocation services; Construction services; End user space services; Acquisition services; Workplace assessment; and Crisis command center.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

MS 10. Contractor must have the ability to provide consulting and/or training for the Data Center and its customers. This consulting/training would include but not be limited to: Risk Assessment; Business Impact Analysis; and Developing, maintaining and testing of business recovery and resumption plans.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MN 11. Contractor must have technical staff for cross training with the Data Center staff to provide for backup capability.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MS 12. Contractor must have two (2) Senior Level MVS Operating System employees with extensive knowledge of IBM hardware. They must also have detailed knowledge of MVS/ESA and JES3, JCL and have the capability to troubleshoot system problems. Must be familiar with VM operating system. Upgrade customer hardware configurations when required.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or

RFP MAC 0029
SECTION VI

8 - 9 years experience

150 points

MS

13. Contractor must have two (2) Senior Level VM Operating System employees with extensive knowledge IBM hardware. They must also have detailed knowledge of VM/ESA, VMSecure and VMBackup and troubleshoot problems with VM. Must be familiar with VM operating system. Update customer hardware configurations when required.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS

14. Contractor must have two (2) Senior Level MVS Storage Administrators with extensive knowledge of DASD initialization, storage pool management, full volume restores using DFDSS or FDR, SMS, JCL and dataset restores. Recover the Master catalog and all associated user catalogs. Troubleshoot DASD support software at the Systems and Utility levels.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS

15. Contractor must have two (2) Senior Level Network Hardware employees with extensive knowledge of JCL, FEPs, Modems, Analog/Digital lines, Terminals, Controllers, DSU/CSUs, Routers, Timpex Muxs and networking software concepts.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS 16. Contractor must have two (2) Senior Level Network Software employees with
extensive knowledge of JCL, SNA-SAA-OSI support for networking migration
capabilities to token-ring, TCP/IP, ethernet, LU6.2, PCs, Micros, Mainframe, VTAM,
150 Routers and NCP environments. Troubleshoot hardware and software problems.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS 17. Contractor must have two (2) Senior Level ADABAS support staff with
extensive knowledge of JCL and a Database Administrator for ADABAS/NATURAL
150 database running under MVS/ESA.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
3 years experience	50 points or
4 - 5 years experience	100 points or
6 - 7 years experience	150 points

MS 18. Contractor must have two (2) Senior Level CICS support staff with extensive
knowledge of JCL and CICS/ESA teleprocessing monitor running under MVS/ESA.
150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

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SECTION VI

Total points _____	
3 years experience	50 points or
4 - 5 years experience	100 points or
6 - 7 years experience	150 points

MS 19. Contractor must have two (2) Senior Level IDMS support staff with extensive
150 knowledge of JCL and the IDMS database running under MVS/ESA.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS 20. Contractor must have two (2) Senior Level RACF security support staff with
150 extensive knowledge of the security package Resource Access Control Facility (RACF) on
MVS.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
5 years experience	50 points or
6 - 7 years experience	100 points or
8 - 9 years experience	150 points

MS 21. Contractor must have two (2) Senior Level AS400 System support staff with
150 extensive knowledge of AS/400 hardware. Be able to install, maintain and support the
current version of the AS400 Operating System. Ensure the system is fully operational
for the customer 7 days a week. Identify and resolve system problems. Maintain AS400
system documentation and software support procedures.

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MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
2 years experience	50 points or
3 - 4 years experience	100 points or
5 - 6 years experience	150 points

F. TESTING REQUIREMENTS

MS 1. Contractor shall provide, if required in the Statement of Work one hundred and forty-four (144) hours of testing annually for the Data Center, divided up into two (2) 72 hours each. Contractor must also provide additional annual testing for new customers as required.

150

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

Total points _____	
144 Hours	50 points or
145 - 192 Hours	100 points or
193 - 240 Hours	150 points

MN 2. Contractor must allow testing at recovery centers other than the center subscribed to, to allow for interchangeability of facilities. Contractor must specify the name and address of all such centers.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN 3. Contractor will have computer operations staff at the hot site for the handling of tape media and printing.

MEETS REQUIREMENTS: YES _____ NO _____

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SECTION VI

REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

4. Contractor must have remote hot site testing capability at a West Coast location.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

MN

5. Contractor must provide additional testing time as required for all customers that subscribe to the hot site contract.

MEETS REQUIREMENTS: YES _____ NO _____
REFERENCE: DOCUMENT _____ PAGE(S) _____
DISCUSSION/DESCRIPTION:

VII COSTS

A. INTRODUCTION:

COST IS NOT PART OF THE EVALUATION FOR INCLUSION IN THE RESULTING MULTIPLE AWARD CONTRACT. However cost will be an evaluation criterion when the Data Center evaluate the contractor proposal for the Statement of Work.

B. THIS IS ONLY AND EXAMPLE OF WHAT MY BE INCLUDED (but not limited to) AND HOW A COST SHEET IN A STATEMENT OF WORK MY LOOK:

1. Subscription Fees

Subscription Fees are those costs paid by the State to the Contractor on a monthly basis, based on the equipment configurations. The State prefers that any discounts offered be reflected in the monthly rates.

2. One-Time Costs

One-time costs are those costs paid by the State for services necessary for the implementation of the services, limited to:

- a. Consulting costs - Those costs paid by the State for support staff services.
- b. Training costs - Those costs paid by the State for personnel training to use, administer and coordinate problem resolutions.
- c. Periodic Testing Costs - Those costs paid by the State for additional test time.
- d. Hot Site Usage - Those costs paid by the State for usage of the hot site facility.
- e. Cold Site Usage - Those costs paid by the State for usage of a cold site facility.
- f. Disaster Declarations - Those costs to declare a disaster.
- g. Network Usage - Those costs for network usage.

One-time costs will be paid lump sum after successful completion of the tasks and will be based on an hourly rate.

3. Cost Adjustments

The term "adjusted" means the correction of errors and omissions in a bid and adjustments for State costs, which may be necessary due to each specific bid approach.

4. Price Escalation

If a vendor reserves the right to increase subscription rates at specified times during the term of the contract, the estimated cost to the State of those increases will be added to the proposal cost. The costs will be calculated for each year of the term, after the first, as follows using the maximum percent of increase allowed by the contract:

- $(\% \text{ of increase}) \times (\text{previous rates}) \times (\text{no. of months})$
- Where "previous rates" are the proposal rates for the first increase.

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SECTION VII

EXAMPLE OF A COST WORKSHEET & INSTRUCTIONS

A. SUBSCRIPTION COSTS (Table 1)

Complete Table 1 as follows:

COLUMN 1 - Configuration Schedules: The Configurations for each department is an attachment and identifies the equipment being used.

COLUMN 2 - Monthly Subscription Costs: Enter the monthly subscription cost. If this is a "no charge" item, enter "NC" in this column.

Enter the Total Monthly Subscription Cost (from Table 1) on EXHIBIT VII-C, line A.

B. ONE-TIME COSTS (Table 2)

Complete Table 2 as follows:

COLUMN 1 - Description: This identifies the services.

COLUMN 2 - Number of Hours: This is an estimate of the number of hours the State will use within the term of the contract.

COLUMN 3 - Number of Months: This is an estimate of the number of months the State will use within the term of the contract.

COLUMN 4 - Cost per Hour: Enter the hourly rate. If this is a "no charge" item, enter "NC" in this column.

COLUMN 5 - Extended Cost: Enter the total cost for each item. This is the product of Columns 2, 3 and 4. If this is a "no charge" item, enter "NC" in this column.

Enter the Total One-Time Cost (from Table 2) on EXHIBIT VII-C, line B.

C. TOTAL COST WORKSHEET (Table 3)

Enter the 60-month totals from EXHIBIT VII-B, Tables 2 and 3, on the appropriate lines.

Enter any costs not listed on Tables 1 and 2 on line C; itemize and attach to EXHIBIT VII-C.

Total lines A - C and enter the Total of ALL costs for 60 months on line D.

EXHIBIT A
EXAMPLE OF A COST WORKSHEET
TABLE 1

GRAND TOTAL: \$

VII-3

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SECTION VII

EXHIBIT B
EXAMPLE OF COST WORKSHEET
TABLE 2
ONE-TIME COSTS

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
DESCRIPTION	# OF HOURS*	# OF MONTHS**	COST PER HOUR/MONTH	TOTAL
Consulting Services	50	N/A	\$ /HR.	\$
Computer Operators	50	N/A	\$ /HR.	\$
System Support	50	N/A	\$ /HR.	\$
Training Services	50	N/A	\$ /HR.	\$
Additional Periodic Testing***	96	N/A	\$ /HR.	\$
Hot Site Usage	N/A	2	\$ /MO.	
Cold Site Usage****	N/A	6	\$ /MO.	
Disaster Declaration	N/A	N/A	N/C	N/C
Network Usage*****	N/A	N/A	N/A	N/A

GRAND TOTAL \$ _____

* There is no minimum or maximum guarantee that these hours will be used. These services will be used on an as needed basis only.

** If less than a month is needed, the monthly rate will be pro-rated by thirty (30) days. There is no minimum or maximum guarantee that these months will be used. These services will be used on an as needed basis only.

*** Annually, the first 144 test hours will be at no cost to the State.

**** The first six (6) months will be at no cost to the State.

***** Customers Responsibility

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SECTION VII

EXHIBIT C
EXAMPLE OF TOTAL COST WORKSHEET
TABLE 3

VENDOR NAME: _____ DATE: _____

A. SUBSCRIPTION FEES

Table 1 Total

\$ _____

B. ONE-TIME COSTS

Table 2 Total

\$ _____

C. OTHER COSTS

\$ _____

D. SUB-TOTAL (Sum of A, B, and C)

\$ _____

VIII. BID FORMAT

A. INTRODUCTION

These instructions prescribe the mandatory bid format and the approach for the development and presentation of bid data. Format instructions must be adhered to, all requirements and questions in the RFP must be responded to, and all requested data must be supplied.

B. DRAFT BID FORMAT AND CONTENT **NOT PART OF THIS RFP**

C. FINAL BID FORMAT AND CONTENT

The complete bid must be submitted in the number of copies indicated. One copy of the complete bid must be labeled, "Master Copy." All copies of the complete bid must include the following items:

1. Volume I - Response to Requirements - MASTER and 4 copies

This volume must contain all responses to Section V, "ADMINISTRATIVE REQUIREMENTS". All forms and questionnaires, EXCEPT FOR COST DATA, must be completed and included in this volume. The organization is to be as follows:

Cover Letter must be prepared and signed in accordance with Section II, paragraph C.5.e.
Signature of Bid. Include as first page of Volume I.

Section V ADMINISTRATIVE REQUIREMENTS, SECTION V EXHIBITS, and any additional forms

2. Volume II - Response to Technical Response - MASTER and 4 copies

Technical Requirements: The vendor shall, using the State's Forms, include a positive response to each of the Technical Requirements in Section VI. Each response shall reference the appropriate document in Volume V, LITERATURE, annotated to clearly show the specific reference which verifies the specification. **DO NOT RE-TYPE THE STATE'S FORMS AS PUBLISHED IN SECTION VI.**

3. Volume III - Completed Contract - MASTER and 4 copies

This volume must contain the completed and signed contract (all original signatures), including all Riders, complete in every detail.

As with Volume I response, any Riders containing cost information must be submitted with the Cost Data in Volume IV below. However, to evaluate your bid prior to opening the Cost Data, submit an identical set of Riders omitting cost information.

The vendor will submit the required number of proposed contracts in this portion of the bid, complete in all respects based upon terms and conditions previously approved by the State in accordance with the requirements outlined in SECTION II, RULES GOVERNING COMPETITION. Deviation from terms and conditions previously so approved may be cause for rejection of the bid.

If any item of the printed/typed contract is deleted (line-out) or there are any erasures, strike-overs, or "whiting-out" of the original typing, each such alteration must be initialed by the person signing the Contract. DO NOT RE-TYPE THE STATE'S MODEL CONTRACT. Follow the instructions for annotating the State's contract as contained in Appendix A, Paragraph B.1.

4. Volume IV - Cost Data - **NOT PART OF THIS RFP**

5. Volume V - Literature - MASTER and 4 copies

This volume must contain all technical and other reference literature necessary to support the response to the requirements of this RFP.

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IX EVALUATION

A RECEIPT

Each proposal will be dated and time stamped as it is received and verified that it is properly sealed. Proposals will remain sealed until the designated time for opening.

B EVALUATION OF FINAL PROPOSALS

1. Proposal Opening and Validation Check

The proposals will be received in accordance with Section II, RULES GOVERNING COMPETITION, of this RFP. The State will record the time of receipt and verify that the proposals were received in a sealed condition.

FINAL PROPOSALS NOT RECEIVED BY THE DATE AND TIME SPECIFIED IN SECTION I.F., KEY ACTION DATES, OR RECEIVED NOT SEALED, WILL BE REJECTED.

All proposals received by the time and date specified in RFP Section I.F., KEY ACTION DATES, will be opened. The proposals will then checked for the presence of the required information in conformance with the requirements of the RFP. Absence of required information will deem the proposal non-responsive and will cause rejection.

2. Validation Against Requirements

The State will evaluate each proposal in detail to determine compliance with the RFP requirements, particularly Section V, Administrative Requirements, and Section VI, Technical Requirements. If a proposal fails to meet a requirement, the State will determine if the deviation is material as defined in RFP Section II, Rules Governing Competition. An immaterial deviation will be examined to determine if the deviation can be accepted. If accepted, the proposal will be processed as if no deviation had occurred. Scoring will not be performed for those scorable requirements for any proposal not meeting all mandatory requirements.

3. Compliance with Mandatory Format and Meeting the Minimum Qualifications

The evaluation team will assure that the bid response follows the mandatory format outlined in Section VIII. Bidders who do not follow the mandatory format may be eliminated from the competition. Sections V and Section VI will be evaluated to determine if the bidder meets the minimum bidder qualifications. The bidder will be scored in the scorable section and must receive a "pass" in the non-scorable section in order to be eligible to be selected to be on the Multiple Award Contract.

4 Point Scoring

Bidders will be evaluated on their ability to provide services based upon the information supplied in response to this RFP. Final selection, and inclusion in the Multiple Award Contract will be determined by the bidder's qualifications as demonstrated in their bid response.

The Procurement Division will evaluate the responses to this RFP in three stages: 1) Compliance with RFP mandatory format, 2) Evaluation of the bidder's Qualifications, to determine if the bidder meets the minimum qualifications, 3) Determining the bidder's point total for bidders meeting the minimum qualifications. Once in the pool, contractors will eligible to compete on specific assignments.

C. EXAMPLE OF SCORING PROCESS

Final Bids will be evaluated and scored in accordance with the procedures set forth in RFP. Final selection will be based on a review of the bidder's qualifications and ratings, for bidders who are responsive to the RFP and the bidder's score compared to the baseline methodology.

The baseline will be established by averaging all the bidders total points for a budget category. That average will then be applied to the bidder's points to obtain an Adjusted Point Score (see example

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following). If the highest score is more than 15% higher than the next highest score, that score will not be included or the averaging of calculations.

All compliant bidders that have scores equal to the baseline or above will be awarded contracts. Additionally, contractors that are below the baseline but within 15% of the baseline will be awarded contracts. Note that in future openings of this Multiple Award Contract, the baseline can be adjusted, due to the ratings given to new firms who make the pool, during the "open" periods.

The State reserves the right at any time to reject any or all bids.

Illustration of Calculating Adjusted Point Score

Bidder	Total Points	Averaged Points	Adjusted Point Score
A	1600	1637	.977
B	2000	1637	1.221
C	2050	1637	1.252
D	900	1637	.549
BASELINE	1637	1637	1.000

Contractors B & C would be awarded contracts and be in the pool, because they scored above the baseline of 1.00. Contractor A would also be awarded a contract because their bid was within 15% of the baseline.

Contractor D would not be awarded a contract because D's bid was more than 15% below the baseline.

D. AVAILABLE POINTS

Item Number	Type	Points
D10	MS	150
D11	MS	150
E8	MS	150
E10	MS	150
E12	MS	150
E13	MS	150
E14	MS	150
E15	MS	150
E15	MS	150
E16	MS	150
E17	MS	150
E18	MS	150
E19	MS	150
E20	MS	150
E21	MS	150
F1	MS	150
TOTAL		2250

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Appendix A

DEVELOPMENT OF CONTRACTS TO BE SUBMITTED IN THE PROPOSAL

A. GENERAL INFORMATION

These instructions are provided to explain how the State Model contracts are structured and how they will be modified to develop mutually agreeable final contracts. Because no negotiations nor alterations (unless specified otherwise) of the contract are permitted subsequent to the time established for the receipt of proposals, it is imperative that bidders follow these instructions carefully in order to be fully responsive, from a contractual aspect, to the RFP.

If you will not be submitting proposed contract language changes, include a statement to that effect in your Letter of Intent to Bid. Volume II of your Final Proposal submittal must include either a completed copy of the State model contract in Appendix B, or a completed copy of the approved contract language, as applicable. For instructions on what needs to be done to complete the contract for inclusion as Volume II of your Proposal, carefully read the following Paragraph B, Preparation of Proposed Contract Language.

B. PREPARATION OF PROPOSED CONTRACT LANGUAGE

[If a bidder has an agreed upon prenegotiated contract containing General Terms and Conditions with the State of California and wishes to use the prenegotiated language, the bidder will include the following statement in response to the State requirement to submit the proposed contract.]

"The General Terms and Conditions will be those that have been prenegotiated with the Department of General Services, Procurement Division, Technology Acquisitions Section. The Reference is _____."

[NOTE: If the State has informed bidders that there are changes in this solicitation to the Model General Terms and Conditions, bidders will need to negotiate any proposed modifications to the changed language separately.]

Any proposed changes to the Contract, Riders or proposed changes to the General Terms and Conditions that have not been prenegotiated through the Prenegotiated Language Program, are to be submitted to the State in the following manner:

1. Detach the model contract, located in Appendix B, from the RFP. This document, properly annotated, will be returned to the State for use in developing final contract language. Do not retype the contract. Annotate the contract at the place of the change to illustrate the proposed change. Margins can be utilized with an arrow drawn to the point of insertion.
2. Make an appropriate entry in any portion of the contract which has a blank (). **Do not include any dollar figures.**
3. Prepare a cover letter of transmittal which identifies each change made to the model contract, and which explains (except where the reason for the change is obvious) the rationale for the change.
4. Make a copy of the annotated contract and retain for your files. This copy will be used during subsequent communications with the State relative to the acceptability of the proposed contract.
5. Submit the Letter of Intent to Bid and the annotated proposed contract language change(s) to the State by the date contained in Section I.F. An early submission of the proposed contract will facilitate the procurement process.
6. Proposed contract language changes not submitted in the manner identified above, may not be considered and may be returned without review.

C. CONTRACT NEGOTIATION

1. Upon receipt of the proposed contract, subject to Paragraph B above, the State will examine the document to establish the acceptability of the proposed language. The bidder will be notified as to which portions, if any, of the language submitted are not acceptable. If necessary, meetings between the bidder and the State will be arranged to resolve any differences. The State may, following such meetings, request a revised contract reflecting changes agreed upon to be prepared and returned by the bidder.
2. Following the last date to approve contract language, the bidder will be notified by the State of any changes required which were agreed upon during contract negotiations and any proposed language which remains unacceptable to the State.
3. Upon request, acceptable proposed contract language will be made available by the State to bidders.

SPECIAL PROVISION TO IT GENERAL TERMS AND CONDITIONS

Item # 3 Limitation of Liability in the IT General Terms and Conditions is hereby changed to:

3 Limitation of Liability

- a. Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work and that are the subject matter of or are directly related to the cause of action. In those instances where Contractor has failed to perform as called for by the contract, the Limitation of Liability provided above shall not limit any right to recover the 'Cost to Cover.' 'Cost to Cover' means the cost of procuring a machine or machines of equivalent (not greater) capability, function, services and performance, less the Contractor's bid price.
- b. The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph of the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Contractor's negligence. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this contract.
- c. State's liability for damages for any cause whatsoever, and regardless of the form of action whether in contract or in tort, excluding negligence, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work (SOW) and that are the subject matter of or are directly related to the cause of action.
- d. In no event will either the Contractor or the State be liable for consequential damages even if notification has been given as to the possibility of such damages